

**THE SUPERIOR COURT
OF THE
STATE OF CALIFORNIA**

**IN AND FOR
THE COUNTY OF
SISKIYOU**



**LOCAL RULES OF COURT
EFFECTIVE JULY 1, 2005**

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RULE 981(f)(3) LIST OF EFFECTIVE DATES

CHAPTER 1: GENERAL RULES

1.01 Citation of Rules

These Rules are to be cited as the “Local Rules of the Siskiyou County Superior Court”.
[Rule 1.01 adopted January 1, 1997; amended effective January 1, 2003.]

1.02 Effective Date of Rules

These Local Rules of Court for Siskiyou County were originally adopted July 1, 1993. Sections 1 through 4 are amended effective July 1, 2005. Section 5 was last amended January 1, 2003. Sections 6 through 13 were last amended effective July 1, 2002. Section 14 was last amended effective July 1, 2004. Section 15 is amended effective July 1, 2005. Sections 16 and 17 were last amended effective July 1, 2002. *[Rule 1.02 adopted January 1, 1997; amended effective July 1, 2005.]*

1.03 Effect of Rules; Judicial Council Preemptions

A. Effect of These Amendments on Prior Local Rules

On their respective effective dates these Rules, as amended, will supersede all Local Rules previously adopted.

B. Judicial Council Preemptions

With certain specified exceptions, the Judicial Council has preempted all Local Rules relating to pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies, and form and format of papers. Rule 981.1(a) of the California Rules of Court. The Judicial Council preemption does not apply to trial and post-trial proceedings (including but not limited to motions in limine). The preemption also does not apply to proceedings under Code of Civil Procedure Sections 527.6, 527.7, and 527.8; to proceedings under the Family Code, the Probate Code, the Welfare and Institutions Code, or the Penal Code and other criminal provisions; to eminent domain proceedings; or to Local Rules adopted pursuant to the Trial Court Delay Reduction Act. Rule 981.1(b) of the California Rules of Court. *[Rule 1.03. adopted January 1, 1997; amended effective January 1, 2003.]*

1.04 Construction and Application of Rules; and Publisher of Rules

These Rules will be construed and applied in such a manner so as to avoid conflict with the laws of the State of California or the California Rules of Court, and will be liberally construed in order to facilitate and promote the business of, and the administration of justice by, the Superior Court. These Rules do not apply to actions or proceedings in the Small Claims Division unless the text of a specific Rules otherwise indicates.

These Rules apply to any person appearing before the Court on his or her own behalf, without a lawyer, as well as to attorneys.

The executive Officer of the Superior Court is the official publisher of these Rules, and will provide a copy of the Rules to the County Law Library. In addition, copies will be maintained for public inspection in the various and several offices of the Clerk of the Court; and the publisher will make copies available for sale to the public for a reasonable fee. The publisher may also make these Rules available on magnetic disk media, and will set a reasonable fee for the purchase thereof. *[Rule 1.04 adopted January 1, 1997; amended effective January 1, 2003].*

1.05 Definitions of Words Used in these Rules

The definitions set forth in Rule 249(c) of the California Rules of Court apply to these Rules with equal force and for all purposes, unless the context or subject matter otherwise requires.

The word "person" includes and applies to corporations, firms, associations, and all other entities, as well as to natural persons.

The word "affidavit" includes and applies to a declaration; and the word "declaration" includes and applies to an affidavit.

The use of the masculine, feminine, or neuter gender includes the others.

The word "Court" means the Superior Court of the State of California in and for the County of Siskiyou; and it includes any judge or temporary judge appointed or elected to the Court, and any judge duly assigned thereto.

The word "judgment" includes and applies to any judgment, order, or decree from which an appeal lies.

The terms "in propria persona", "in pro per", "unrepresented party", or "self-represented party" all mean a person appearing without a lawyer.

The word "civil" means all matters of a general civil nature and all matters that are special proceedings under the California Code of Civil Procedure; the word "probate" means all matters brought under the California Probate Code regardless of whether or not a decedent's estate is the subject of the action; and the phrase "family law" applies to all matters brought under the California Family Code. *[Rule 1.05 adopted January 1, 1997; amended effective January 1, 2003].*

1.06 Amendment or Addition to, or Repeal of, Local Rules of Court

These Rules may be amended or repealed, and new Rules may be added, by a majority vote of the judges of the Siskiyou County Superior Court. *[Rule 1.06 adopted January 1, 1997; amended effective January 1, 2001.]*

CHAPTER 2: ADMINISTRATIVE MATTERS

2.01 Commissioners and Judges Pro Tem

A. Court Commissioners

- (1) Appointment. Court commissioners will be appointed by and will serve at the pleasure of the presiding judge of the Superior Court.
- (2) Duties as Commissioner. Within the jurisdiction of the Court and under the direction of the presiding judge, commissioners will exercise all the powers and perform all the duties prescribed by law to be performed by commissioners of the appointing court, and such additional powers and duties as may be authorized by law.
- (3) Duties as Judge Pro Tem. At the direction of the presiding judge, commissioners may have the same jurisdiction and may exercise the same powers and duties as a judge; and, with the consent of the parties where required by law, may hear any other action as a judge pro tem.

B. Temporary Judges (“Judge Pro Tem”)

Temporary judges will be appointed for the Court in accordance with Rule 244 of the California Rules of Court; and will serve as assigned by, and under the control and supervision of, the presiding judge of the Court. *Rule 2.01 adopted effective January 1, 1997; amended effective July 1, 2005.]*

2.02 Official Court Reporters

A. Reported Proceedings

The following proceedings normally are not reported by an official court reporter: the civil law and motion calendar; the conservatorship and probate calendars; civil, probate, and family law trials; family law contested hearing; hearings carried over from the regular order to show cause calendar in family law; small claims trials de novo; and uncontested hearings of any civil, probate, or family law nature. The Court, in its discretion, may order that any of the aforesaid matters be reported. All other civil proceedings will be reported by an official court reporter.

B. Request for Presence of Official Court Reporter; and Deposit

Any party who requests the presence of an official court reporter for a trial or other proceeding not normally reported (as set forth in subpart 2.2.A, above) must make that request, by written notice to the clerk of the Court, not less than ten (10) days prior to commencement of the proceeding or at such other time as the Court may require; and at the same time the requesting party, in order to reserve an official court reporter, must deliver \$200 to the clerk as a deposit on the fee for the first full day of the court reporter’s services (Gov’t.C §68086(a); CRC Rule 891.).

C. Effect Of Settlement On Deposit For Official Court Reporter

If the proceeding for which an official court reporter has been requested is settled or continued, or for any other reason does not go forward as calendared, it is the duty of the

party who requested the reporter to so notify both the court manager and the office of the official court reporter, not later than 24 hours prior to the scheduled proceeding. Failure to provide such notice will result in forfeiture of the deposit for the requested court reporter, and the deposit will be applied to payment for the court reporter's services. The court reporter will be entitled to receive his or her per diem rate and mileage, if any. *[Rule 2.02 adopted effective January 1, 1997; amended effective July 1, 2005.]*

2.03 Case Disposition Time Standards

A. Policy Re Time Standards For Disposition Of Cases

It is the policy of the Court to manage all cases from filing (in civil matters) and first appearance (in criminal matters) through final disposition. This policy is to be construed in a fashion that is consistent with existing law.

This policy is established to maximize efficient use of court resources; to improve the administration of justice by encouraging prompt disposition of all matters coming before the Court; and to resolve cases within the time standards established in the California Rules of Court, Standards of Judicial Administration (hereinafter, "the Standards").

B. General Civil Cases

Section 2.1(e) and 2.1(h) of the Standards, and Rule 207 of the California Rules of Court, are incorporated herein by this reference, as follows: a general civil case is any civil case, other than a small claim; an unlawful detainer; a juvenile proceeding; matters in probate, guardianship, conservatorship, or family law; and "other civil petitions" as defined in the Regulations on Superior Court Reports to the Judicial Council. The disposition goals for general civil cases are: (1) 90 percent disposed of within 12 months after filing; (2) 98 percent disposed of within 18 months after filing; and (3) 100 percent disposed of within 24 months after filing.

C. Criminal Cases

(1) Felonies. Section 2.1(f) of the Standards is incorporated herein by this reference, as follows: the goal for all felony cases is disposition within one year of first appearance before the Court, except for capital cases.

(2) Misdemeanors. Misdemeanor cases goals are as set forth in §2.3(e) of the Standards.

D. Additional Procedures For Timely Disposition

Additional procedures, guidelines, and requirements for disposition may be set forth elsewhere in these Rules. *[Rule 2.03 adopted January 1, 1997; amended effective January 1, 2003.]*

2.04 Smoking During Court Proceedings

Smoking in public buildings in Siskiyou County is permitted in designated areas only; the designated areas are clearly marked.

There are no designated smoking areas inside of the Siskiyou County Courthouse. Smoking is permitted outside of the building.

No smoking will be permitted, at any time, in jury deliberation rooms or in the jury assembly room.

In jury cases, the jury foreperson is required, upon the request of any juror, to allocate smoking breaks, not to exceed ten minutes during each hour of deliberation, at which times jurors may adjourn to outside of the courthouse for the purpose of taking a smoking break. During such periods, deliberations must be suspended and jurors must not in any way discuss the case at hand. The foreperson must make arrangements with the bailiff for smoking breaks, and the bailiff will remain in attendance during such periods. The judge presiding over each trial will advise the jurors of this Rule, and will admonish them concerning discussions during smoking breaks. Counsel may stipulate that an initial admonishment will be sufficient, without repetition at each break. *[Rule 2.04 adopted January 1, 1997; amended effective January 1, 2003.]*

2.05 Courtroom Decorum

Persons appearing in the Courtroom must adhere to the conduct prescribed by Appendix 1 to these Rules. *[Rule 2.05 adopted January 1, 1997; amended effective January 1, 2003.]*

2.06 Reserved

2.07 Reserved

2.08 Court Executive Officer; Executive Officer's Assumption Of Responsibilities Of The Clerk Of The Superior Court

A. Court Executive Officer

The Court is committed to the implementation of trial court coordination as required by Government Code §68112, and to that end has hired a court executive officer, pursuant to Government Code §68114.6, whose responsibilities shall include all those duties set forth in Rules 204.1 and 204.2 of the California Rules of Court and in Code of Civil Procedure §195.

B. Assumption Of The Duties Of The Clerk

The powers, duties and responsibilities of the clerk of the Court that are specified in Government Code §§ 69841, 69842, 69843, 69844, 69844.5, 69844.7, 69845, 69846, 69846.5, and 69848, and by any other statutory authority, will be exercised or performed by the court executive officer. *[Rule 2.08 adopted effective January 1, 1997; amended and renumbered effective January 1, 2003.]*

2.09 Code Of Ethics For Court Employees

The Court adopts the Code of Ethics for Court Employees issued by the California Judicial Council on May 17, 1994, and directs that all court employees be bound by this

Code. The Code of Ethics is set forth in its entirety in Appendix 2 of these Rules. *[Rule 2.09 adopted effective January 1, 1997; renumbered effective January 1, 2003.]*

2.10 Appellate Division Rules

The following Rules apply to proceedings before the Appellate Division of the Siskiyou County Superior Court:

A. Required Copies Of Appellate Briefs

All briefs filed with the Appellate Division must be accompanied by two additional copies.

B. Oral Argument

Unless written request for oral argument is submitted at the time appellant's opening brief is filed, oral argument will be deemed to have been waived.

C. Ex Parte Applications And Motions

All ex parte applications for extensions of time or other routine matters must be submitted to the clerk of the Court, who will present the application to the presiding judge of the Appellate Division for review. All motions, including motions for relief from default, together with proper proof of service, must be filed with the clerk of the Court. Opposition papers must be served and filed within seven (7) days after the filing of the motion. The Appellate Division may rule on the motion with or without a hearing.

D. Filing Of Appellate Division Opinions

An Appellate Division opinion may be filed after it has been signed in counterpart by the appellate panel, and may be in the form of a facsimile transmission document bearing the signature of any panel member.

E. Appointment Of Counsel For Appeal In Criminal Matters

Persons who seek appointment of counsel pursuant to Rule 185.5 of the California Rules of Court must obtain the necessary application form from the clerk of the Criminal Division, Yreka Branch, and must file the completed forms at the same location. *[Rule 2.10 adopted effective January 1, 1997; amended and renumbered effective January 1, 2003.]*

2.11 Jury Selection Boundaries

Except as otherwise provided by Code of Civil Procedure §§190, et seq., jury selection boundaries for the Superior Court of Siskiyou County will be the entirety of Siskiyou County, California. *[Rule 2.11 adopted effective January 1, 1997; amended effective January 1, 2003]*

2.12 Excuses From Jury Service

A. General Policy Re Excuses From Service

- (1) No class or category of persons will be automatically excluded from jury service, except as may be provided by law.

- (2) A statutory exemption from jury service will be granted only when the eligible person claims it.
- (3) Inconvenience to a prospective juror or an employer is not an adequate reason to be excused from jury service, although it may be considered as a ground for deferral.
- (4) Deferring jury service is preferred to excusing a prospective juror for a temporary or marginal hardship. Vacations or extended trips are examples of circumstances that warrant deferral rather than excuse from jury service.
- (5) A juror who has served on a grand jury or trial jury anytime during the twelve months immediately preceding his or her call to jury service, or any longer period that the Court deems appropriate, will be excused from service at his or her request.

B. Form Of Request To Be Excused From Jury Service

A request to be excused from jury service for hardship must be from the prospective juror and must be in writing. The request must be supported by the juror's statement of facts, specifying the hardship and explaining why the circumstances constituting the hardship cannot be avoided by deferral of service. The Court will maintain a record of all such requests that have been granted, and of all deferrals of jury service.

C. Grounds For Excuse

Excuse on the grounds of undue hardship may be granted for any of the following reasons:

- (1) The juror has no reasonably available means of public or private transportation to court.
- (2) The juror must travel an excessive distance. (Excessive distance is defined as travel time that exceeds two (2) hours from the juror's home to the location of the court.)
- (3) The juror will bear an extreme financial burden. The following will be considered in determining whether or not to excuse the juror for extreme financial burden:
 - (a) Sources of the juror's household income;
 - (b) Availability/extent of income reimbursement;
 - (c) Expected length of service; and
 - (d) Whether or not jury service can reasonably be expected to compromise the juror's ability to support either the juror or his or her dependents, or so disrupt the economic stability of any individual as to be against the interests of justice.
- (4) The juror will bear a risk of injury to or destruction of juror's property, or property entrusted to juror, where it is not feasible to make alternative arrangements to alleviate the risk. The following will be considered in determining whether or not to excuse the juror because of risk to property:
 - (a) The nature of the property;
 - (b) The source and duration of the risk;
 - (c) The probability that the risk will be realized;

- (d) The reason why alternative arrangements to protect the property cannot be made; and
 - (e) Whether material injury to or destruction of the property will so disrupt the economic stability of any individual as to be against the interests of justice.
- (5) The juror has a physical or mental disability or impairment, not affecting his or her competence to act as a juror, which would expose the juror to undue risk of mental or physical harm. Unless the prospective juror is aged 70 years or older, he or she may be required to furnish verification of the disability or impairment, its probable duration, and the particular reasons for the inability to serve.
- (6) The juror's services are immediately needed for the protection of the public health and safety, and it is not feasible to make alternative arrangements to relieve the juror of these responsibilities during the period of service as a juror, without substantially reducing essential public services.
- (7) The juror has a personal obligation to provide actual and necessary care for another, including a sick, aged, or infirm dependent, or a child who requires the juror's personal care and attention, and comparable substitute care is neither available nor practical without imposing an undue economic hardship on the juror or person cared for. When the request to be excused is based on care provided to a sick or disabled person, the juror will be required to furnish verification that the person being cared for is in need of regular and personal care. *[Rule 2.12 adopted January 1, 1997; amended effective January 1, 2003.]*

2.13 Interpreters

The Court maintains a list of interpreters and translators. The Court does not provide interpreters in general civil cases, (which include, but are not limited to, special proceedings, all matters brought under the California Family Code, and all matters brought under the California Probate Code). A party appearing in a general civil proceeding has an obligation to provide his or her own interpreter. When the court approves a fee waiver request by an indigent litigant for court-appointed interpreter's fees for witnesses [Rule 985(j)(2) of the California Rules of Court], and in all criminal and juvenile matters for which an interpreter will be necessary, counsel (or the party if unrepresented by counsel) must notify the Court's judicial services coordinator at least forty-eight (48) hours prior to the time set for the proceeding at which an interpreter will be required. *[Rule 2.13 adopted effective January 1, 1997; amended effective January 1, 2003.]*

2.14 Form Of Papers Presented For Filing; And Clerk's Authority Re Such Papers

A. Definition

The word "papers" as used in this Rule includes all documents, except exhibits or copies of documents, which are offered for filing in any case in the Superior Court; but it does not include printed forms furnished by the Court.

B. Form Of Papers

All papers filed with the Court must be in conformity with each and every requirement of Rule 201 of the California Rules of Court. Counsel and unrepresented parties are urged to review those requirements on a regular basis.

C. Clerk's Authority

The clerk of the Court will not accept for filing, or file, any papers that do not comply with the requirements of CRC Rule 201, unless the Court has ordered otherwise for good cause shown. (CRC Rule 2.01(j).) *[Rule 2.14 adopted effective January 1, 1997; amended effective January 1, 2003.]*

2.15 Facsimile (FAX) Filing In Civil, Probate And Family Law

A. Filing Is Permissive Only

The filing of documents by facsimile ("FAX") transmission is discretionary with the Court, and the privilege is limited as follows:

- (1) Filing by facsimile transmission is permitted for all documents in civil, probate and family law matters, by counsel and by unrepresented parties. Any document for which a filing fee is required upon filing may be FAX filed only in the manner provided for by Local Rules 2.15.B(1) (automated FAX filing) or 2.15.B(3) (FAX filing by agent).
- (2) The Court may suspend the FAX filing privileges of any party or attorney who fails to comply with the requirements of this Rule.
- (3) The Court may disregard any document filed by facsimile transmission that is not in compliance with this Rule.
- (4) Because filing by facsimile transmission is permissive only, the cost of filing papers with the Court pursuant to this Rule is not recoverable under Code of Civil Procedure §1033.5.
- (5) The Court reserves the right to terminate any one or more of the methods allowed for FAX filing without giving prior notice.

B. FAX Filing Procedures

Subject to Rules 2001 et seq. of the California Rules of Court, and to Local Rule 2.15.A.(1), a party may FAX file papers with the Court using any of the following procedures:

(1) By Automated FAX Filing System

- (a) Documents will be accepted for FAX filing through the designated automated FAX filing system (provided by "Official Payments Corporation", an independent vendor offering FAX filing services in association with the Court, or such other vendor as the Court may select).
- (b) The first sheet transmitted by automated FAX filing must be the Judicial Council Facsimile Transmission Cover Sheet (Form JC-2009) followed immediately by the document to be filed.

- (c) The document to be filed must include the words “BY FAX” immediately below its title.
 - (d) The complete and proper transmission of a document by facsimile machine is the responsibility of the filing attorney or party, not of the Court.
 - (e) Confirmation that the document has been filed will be returned by the vendor to the filing attorney or unrepresented party by FAX, along with a conformed face sheet, after review and approval of the form of the document by the clerk of the Court.
 - (f) The Court’s toll-free direct FAX filing number can be obtained by calling the vendor at **(800)322-4945**. At the time of the initial call to the vendor, the filing attorney or party must register his or her phone number and initiating FAX number, as well as a credit card number and its expiration date. The Court’s FAX machine will be in operation 24 hours a day, barring unforeseen circumstances; however, any FAX received after 5:00 P.M. or on a court holiday will be deemed to have been filed on the next court day.
 - (g) The vendor’s fees for filing by FAX are set by the vendor at the rate of \$9.95 per filing, plus \$1.00 per page (**note:** rates are subject to change without notice). For additional and/or updated information regarding the use of the automated Fax filing system and credit card payment procedures, call **(800)322-4945**.
 - (h) In ex parte matters, an additional cover sheet must be prepared and submitted by counsel or unrepresented party which states, in a manner designed to be readily observed by the clerk and the Court: “THIS IS AN EX PARTE APPLICATION. THE MATTER IS CALENDARED FOR HEARING AT [**DATE and TIME**]”.
- (2) By Direct Filing with the Court
- (a) This procedure is not applicable to documents for which a filing fee is required upon filing.
 - (b) Papers may be FAX’d directly to the clerk's office, for filing or communication to the Court, on the following terms and conditions:
 - (i) The clerk will attempt to maintain a 24-hour phone line for FAX transmissions. Persons seeking to file documents under this Rule should check with the clerk for the telephone number, as it may change from time to time. Due to simultaneous transmissions, mechanical breakdown, and other potential problems, direct FAX filing may not be available at all times. Parties and counsel rely on direct FAX filing at their own risk. The Court will consider applications for relief from failure to file required papers only when such failure can be shown to be attributable to the malfunction of the clerk's FAX machine, not to a malfunction of the transmitting machine. The clerk will not review FAX filed documents to determine whether the documents have been transmitted legibly or completely.
 - (ii) Every paper received by FAX pursuant to this part must be accompanied by an informational cover sheet that identifies the transmitting party, his or her telephone number and address, the date of the transmission, the case name, and the case number. In addition, every case caption sheet that is so transmitted must

indicate: "FILED BY FAX" in the upper right-hand corner. These papers will be filed in by the clerk just as papers are filed generally.

- (iii) Upon receipt of papers filed by direct FAX, the cover sheet will be considered as presumptive proof that the subject paper was filed on the date indicated thereon, unless the transmission was commenced after 5:00 p.m., in which case the filing will be presumed to have been accomplished on the next court day, and so filed in by the clerk. The time that the transmission was commenced will be determined by the "time received" message that is printed at the top of the document by the clerk's FAX machine.
- (c) The filing fee for direct FAX filing is \$1.00 per page for each page transmitted, including the informational cover page, and must be paid by check, cash, money order, or cashier's check to the clerk of the Court within two court days from the date of transmission or by the date of hearing, whichever first occurs. The payment of this fee is the joint obligation of the filing party and his or her attorney of record, if any. Failure to pay these fees will be deemed a failure to pay fees pursuant to Code of Civil Procedure §411.20, and may result in the Court's nullification of a prior filing; in the Court's disregard of a document so filed; and/or in the suspension of proceedings, including a calendared matter.

(3) By Filing Through FAX Filing Agent

Filing through an agent pursuant to Rule 2005 of the California Rules of Court is permitted, as long as there is full compliance with CRC Rules 2004, 2005 and 2007, and if the document is on plain paper, not thermal paper.

C. FAX Filing For Ex Parte Applications And Requests For Telephonic Appearance

All ex parte applications in civil, probate and family law matters are subject to this Rule. However, this Rule does not apply to FAX requests for leave to participate by telephonic appearance at status or case management conferences (Local Rule 4.03) or at a law & motion hearing (Local Rule 3.06.D). *[Rule 2.15 adopted effective January 1, 1997; amended effective January 1, 2003.]*

2.16 Payment Or Waiver Of Filing Fees

A. Waiver By Clerk of the Court

The clerk is authorized to grant applications for fee waivers that meet the standards of eligibility established by Government Code §68511.3, subdivisions (a)(6)(A) or (B). Pursuant to CRC Rule 985, both the clerk and the County Sheriff are hereby designated to make the financial inquiries and verifications contemplated by said statutes.

B. Effect Of Fee Waiver On Award Of Costs

In all cases in which a prevailing party has been granted a waiver of fees and is awarded costs, the Court will order that the party bearing costs pay, directly to the Court, the aggregate of any fees that were waived.

C. Fee Waiver for Witness Interpreter

There will be no waiver of fees for payment of a court-appointed interpreter for witnesses in civil, family law, or probate cases, unless the Court has approved the requesting party's application. (CRC Rule 985(j)(2).) *[Rule 2.16 adopted January 1, 1997; amended effective January 1, 2001.]*

2.17 Motions To Be Relieved As Attorney Of Record

An attorney who wishes to be relieved as attorney of record must comply with Rule 376 of the California Rules of Court. *[Rule 2.17 adopted January 1, 1997; amended effective January 1, 2003.]*

2.18 Substitution Of Attorneys Or Of Party In Pro Per

A substitution of attorneys or substitution of a party in pro per is not complete or effective unless the address and telephone number of the new attorney or new unrepresented party, and the state bar number of the new attorney, are included on the substitution form. *[Rule 2.18 adopted effective January 1, 1997; amended effective January 1, 2003.]*

2.19 Procedure Upon Filing Of A Peremptory Challenge, Or Challenge Pursuant To CCP §170.1, 170.3, 170.6

Upon the filing of any challenge to a judge sitting in the Superior Court pursuant to Code of Civil Procedure §§170.1, 170.3 or 170.6, the clerk will deliver the challenge, together with the Court's file for that action, to the office of the presiding judge of the Court. A perfected challenge will be noted by a flag on the outside of the Court's file and also by a three-by-five card that will remain on top of the last document to be filed into the Court's file. *[Rule 2.19 adopted effective January 1, 1997; amended effective January 1, 2001.]*

2.20 Notices Of Unavailability Of Counsel

The Court will not post or accept general notices of unavailability of counsel, for any reason. This policy is not intended to prohibit an attorney from providing notices of unavailability in specific cases [*Tenderloin Housing Clinic, Inc. v. Sparks* (1992) 8 Cal.App.4th 299]; and is not an indication that the Court will be predisposed to award sanctions if such notice in specific cases is disregarded by opposing counsel or unrepresented party. *Rule 2.20 adopted effective January 1, 1997; amended effective January 1, 2001.]*

CHAPTER 3: GENERAL CIVIL RULES, AND LAW & MOTION RULES

3.01 Scope Of Civil And Law & Motion Rules

Subject to the limitations imposed by Rule 981.1 of the California Rules of Court, this Section Three of the Local Rules is intended as a guide to the conduct of all civil pretrial matters, and is controlling for law and motion matters pursuant to the following: Code of Civil Procedure §§527.6, 527.7, and 527.8; the Family Code; the Probate Code; and the Welfare and Institutions Code.

Trial and post-trial proceedings, including but not limited to motions in limine, are governed by Section Four of these Rules. *[Rule 3.01 adopted effective January 1, 1997; amended effective January 1, 2003.]*

3.02 Motions And Other Applications In General

A. Format Of Papers

All papers filed in support of or in opposition to a motion or other application for an order must comply with Rules 311-315, and Rule 201, of the California Rules of Court. Failure to comply with those Rules may, in the Court's discretion, constitute a sufficient basis for the Court to deny relief or to otherwise disregard the papers filed. This paragraph is not intended to diminish the Court's authority to exercise its discretion in any other appropriate manner.

B. Time For Filing; Calendar Changes; Proofs Of Service

Unless otherwise ordered or specifically provided by law, all moving and supporting papers, all papers opposing a motion, and all reply papers must be filed and served as required by Code of Civil Procedure §1005(b). [CRC Rule 317(a).]

In order to determine if timely notice has been accomplished pursuant to CCP §1005(b), the Court will first count the number of calendar days authorized for the form of service that has been utilized by the moving party, and then count the required sixteen court days to the date of hearing. In counting both segments of time, the Court will exclude the first day (e.g., the actual date of personal service or of mailing), and will include the last day (the date of the hearing or other proceeding).

When a court holiday has been declared for what otherwise would be a regular law & motion day, law & motion matters must be set for hearing on the next regularly-scheduled law & motion calendar, not on the next court day.

Proof of service of the moving papers must be filed no later than five (5) calendar days before the time set for the hearing on the motion. [CRC Rule 317(c).]

Failure to timely serve and file a moving or responding paper, or to timely file a proof of service, may, in the Court's discretion, constitute a sufficient basis for denial of the motion or application, or to disregard the paper. This paragraph is not intended to diminish the Court's authority to exercise its discretion in any other appropriate manner, including but not limited to granting of a continuance or the imposition of sanctions.

C. Exhibits

The form and format of exhibits to a motion or application, including photographs used as exhibits, are governed by Rules 311(e) and 313(g) of the California Rules of Court.

D. Requests For Judicial Notice

Every request to take judicial notice must comply with Rule 323(b) of the California Rules of Court.

E. Memoranda Of Points And Authorities

Every memorandum of points and authorities submitted in support of or opposition to a motion or application must be in accordance with Rule 313 of the California Rules of Court. The Court may, in its discretion, disregard any paper that does not comply with this Rule.

If any authority other than a California case, statute, constitutional provision, or state or local rule is cited, a copy must be attached to the paper in which the authority is cited, and tabbed as an exhibit in the required manner. [CRC Rule 313(f).] Counsel may also attach copies of California authorities if doing so will assist the Court and opposing counsel.

F. Failure To Serve And File Opposition

Failure to serve and file papers in opposition to a motion or any other application for a Court order (other than opposition to an ex parte application) may be deemed, in the Court's discretion, to be 1) a waiver of objections and 2) an admission that the motion or other application is meritorious.

G. Matters Submitted Without Appearance

In general, submission of matters without appearance by counsel or unrepresented party is encouraged, and will not be prejudicial to any party. Prior notice of non-appearance is required. [CRC Rule 321(c).] This required notice must be given by means reasonably calculated to ensure receipt by the judicial services coordinator and opposing parties no later than two (2) days prior to the hearing date. If an out-of-county judge has been assigned to the case, counsel must give notice of non-appearance at the earliest possible date, in no case later than two (2) court days before the hearing.

H. Supporting Declarations

All declarations submitted in support of or in opposition to a motion, or any other application to the Court, must comply with the requirements of CRC Rule 315(a) and Code of Civil Procedure §2015.5. Failure to so comply may result in the Court's disregard of the declaration.

Unless a statute authorizes a declaration on information and belief, the declaration must set forth statements of evidentiary facts to which the declarant could testify if called as a witness, and must include a declaration under penalty of perjury by the declarant to that fact. If a statute authorizes a statement on information and belief, and such statement is made by the declarant, the facts upon which the declarant's information and belief are based must be included.

I. Reply Briefs

Except with regard to motions for summary judgment, the Court discourages submission of reply briefs.

J. Tentative Rulings

The Court may establish, in the future and without amendment of these Rules, a procedure for publishing or otherwise announcing tentative rulings. *[Rule 3.02 adopted effective January 1, 1997.]*

3.03 Ex Parte Motions And ApplicationsA. Applicability; Calendaring And Submission Of Documents

Rule 379 of the California Rules of Court governs ex parte matters in general civil law & motion proceedings, and ex parte matters in family law discovery and probate discovery proceedings. [CRC Rule 301.] Unless otherwise specified, the provisions of this Local Rule 3.03 apply to all other ex parte matters. **Note:** For those matters which are governed by CRC Rule 379, the ex parte applicant must comply with the requirements of Part 3.03.C, below, concerning calendaring the ex parte matter with, and submission of papers to, the Superior Court.

B. Notice Requirements For Ex Parte Applications Not Governed By CRC Rule 379

This subpart applies only to matters not governed by Rule 379 of the California Rules of Court. Failure to comply with this Rule may result in the motion or application being denied (without prejudice to its renewal); in delay of the Court's review of the application, and/or in the imposition of sanctions pursuant to Code of Civil Procedure §177.5.

- (1) Except as to an adverse party in default, an application for an order must not be made by ex parte hearing unless it appears, by affidavit or declaration
 - (a) that within a reasonable time (see part 3.03.B(2), below) before the application is heard, the moving party informed all opposing counsel or unrepresented parties as to when and where the application would be made, and the exact nature of the relief sought thereby; or,
 - (b) that the moving party in good faith attempted to inform opposing counsel or unrepresented parties of the time, place, and content of the ex parte application, but was unable to do so (specifying such attempts); or,
 - (c) that for reasons specified, which establish good cause, the moving party should not be required to inform opposing counsel or unrepresented parties of the pending ex parte application.
- (2) “Reasonable” time or notice to the opposition, as required by this Rule, means that notice is given to all opposing counsel or unrepresented parties, either in person, by telephone, or by FAX, no later than 10:00 AM on the court day just prior to the date of the ex parte appearance, absent a showing of exceptional circumstances. This requirement does not preclude giving greater notice by letter or other means.

- (3) For ex parte applications made pursuant to any provision of the Family Code; or for petitions for temporary guardianship pursuant to Probate Code §2250; or for petitions pursuant to Code of Civil Procedure §§527.6, 527.7, or 527.8, the local form "Declaration re Notice" (attached to these Rules in Appendix 3) must be completed by counsel or unrepresented party, and submitted along with the ex parte application.
- (4) Parties appearing at the ex parte hearing must serve copies of the ex parte application or any written opposition thereto on all other parties who have appeared, at the first reasonable opportunity, which for moving papers will be presumed to be no later than 12:00 P.M. (noon) on the court day just prior to the day of the hearing, and for opposition papers will be presumed to be at least four (4) business hours prior to the hearing. Service may be accomplished by facsimile transmission.
- (5) Proof of actual notice or of adequate justification for proceeding without notice, and proof of service of documents as required by this Rule, must be presented to the Court, whenever possible, no later than four (4) business hours prior to the application, and in any case by no later than the time of the appearance on the application.

C. Submission And Calendaring Of Ex Parte Applications; And Review By The Court

This subpart applies to all ex parte applications, including those governed by CRC Rule 379.

(1) Submission And Calendaring

- (a) Uncontested ex parte applications, or ex parte applications supported by a showing of good cause for lack of prior notice, may be submitted to the clerk of the Court at any time, for presentation to the Court. The Court will attempt to review all such matters expeditiously, but it is unlikely that any ex parte request submitted after 12:00 P.M. (noon) for consideration without a hearing will be reviewed by the Court on the day of submission.
- (b) For ex parte matters that are contested or that otherwise require appearances, hearings will be conducted at 1:15 P.M. daily, in the courtroom or chambers of Department One as the Court deems appropriate. Such matters must be scheduled for hearing by the Court's judicial services coordinator, as early as possible before the requested hearing but not later than 12:00 AM (noon) of the preceding court day unless good cause is shown. The applicant is responsible for contacting the judicial services coordinator to schedule the hearing, and for giving notice thereof.
- (c) Copies of the application or moving papers must be submitted to the Court by no later than four (4) business hours prior to the scheduled time of the hearing; and copies of any responding papers should be submitted prior to the hearing if possible.
- (d) The Court may conduct informal ex parte hearings for unrepresented parties, as it deems appropriate.

- (2) Ex Parte Communication With The Court. The Court will not consider any ex parte communications from counsel or unrepresented parties unless made in the manner prescribed by these Rules, by the California Rules of Court, or by the laws of this State.

Applications to the Court for ex parte relief must never be made by letter. Counsel are hereby reminded of Rule 5-300(b) of the Rules of Professional Conduct of the State Bar of California, concerning ex parte communications with the Court.

- (3) Undertakings. The Court will require an undertaking of \$2,500.00 for a temporary restraining order in civil cases (with the exception of family law or CCP §527.6 civil harassment matters); however, in all civil matters the Court has discretion to order more or less than \$2,500 as an undertaking, or no undertaking at all, on good cause shown.

D. Change Of Status Quo

The applicant for an ex parte order has an absolute duty to disclose to the Court that a requested order will result in a change of the status quo.

E. Ex Parte Request For Order Shortening Time

- (1) A request for an order shortening time for service [CCP §1005] or for hearing will not be granted unless supported by a declaration demonstrating good cause why the matter cannot be heard on regular notice.
- (2) If an order shortening time is requested, the supporting declaration must state whether or not the responding party is represented by counsel, the name and address of the responding party's attorney, and whether or not that attorney has been contacted and has agreed to the date and time proposed for the hearing.
- (3) If the responding party's attorney has not been contacted or has not agreed to the proposed setting, the supporting declaration must clearly demonstrate why the hearing should be set on the proposed date without the consent of opposing counsel, and the reason the matter must be heard on shortened notice.
- (4) Provisions for the immediate delivery of the moving papers to opposing counsel's office, or to an unrepresented party, must be set forth in the proposed order.
- (5) In cases where an order shortening time has been granted, the moving papers must be promptly served on the office of opposing counsel or on any unrepresented opposing party; and in no case may they be delivered fewer than two (2) court days preceding the hearing, unless otherwise authorized by the Court.

F. Ex Parte Writs Of Attachment Or Possession

- (1) When application is made for an ex parte writ of attachment, any affidavit or declaration submitted therewith must also comply with Code of Civil Procedure §482.040 as modified by Code of Civil Procedure §§485.210(d) and 488.510(b). Failure to comply with this Rule ordinarily will result in denial of the application, in which event the applicant must proceed by noticed hearing procedures. Where the applicant relies wholly or in part on a verified complaint, the application must be accompanied by a separate statement setting forth the evidentiary facts upon which the applicant relies.
- (2) When application is made for an ex parte writ of attachment, the applicant must also submit a memorandum setting forth the reason why the application is not, instead, a request for a temporary protective order under Code of Civil Procedure §486.030. Any evidentiary facts relied on in the memorandum must be presented in the supporting declarations.

- (3) Every application for issuance of a writ of possession must comply with Code of Civil Procedure §516.030. Additionally, the applicant must set forth, by declaration, facts to aid the Court in its determination of the undertaking amount, pursuant to Code of Civil Procedure §515.010.

G. Re-Application After Denial Of Ex Parte Application

When an ex parte motion has been made, and has been refused in whole or in part, or has been granted conditionally or on terms, and a subsequent application is made for the same or a similar order, to the same or a different judge, whether upon an alleged different state of facts or otherwise, then the applicant must show, by declaration, what motion was previously made, the nature of the previous motion, when and to what judge it was made, what order or decision was made thereon, and what new facts, if any, are claimed by the new motion.

H. Ex Parte Applications Re Stipulated Judgments

Unless a stipulation that authorizes the rendering and entry of judgment, or that authorizes the termination of a stay of execution upon failure to perform specified conditions, also includes an express waiver of notice, an application to render or for entry of judgment, or to vacate or terminate a stay upon failure to perform conditions, must be made on noticed motion. [Rooney v. Vermont Investment Corp. (1973) 10 Cal.3d 351.] Whether ex parte or on notice, the applicant must submit a declaration setting forth any payments made or other compliance by defendant; the specifics of the alleged failure to perform; and the substance of the order requested.

I. Ex Parte Applications In Matters Governed By The Probate Code

- (1) In General. In all probate matters, formal notice must be given if it is not entirely clear that an ex parte order is proper or if issues are presented in which the relevant facts might be in doubt, and where it thus appears that other parties should have an opportunity to be heard. Because no testimony will be taken in connection with ex parte petitions, the application must include facts that justify granting the prayer. The petition must be verified. Conclusions or statements of ultimate fact are not sufficient. A foundation that establishes a declarant's personal knowledge must be set forth in any supporting declaration or affidavit. If the petition is opposed, counsel may argue the merits at the time of the hearing.
- (2) Affect Of Failure To Give Notice. Ex parte orders issued without prior notice will be set aside ex parte upon a showing of sufficient justification, if such is presented by a person who claims an interest in the estate. [In re Sullenberger, 72 Cal. 549.]
- (3) Time For Giving Notice. If a probate application is presented ex parte, and the need for an opportunity to be heard is apparent, the Court will calendar the matter for a hearing as soon as practicable, and will require the applicant, by no later than 10:00 AM of the court day just prior to the hearing date, to give notice of the nature of the application to counsel for any other known interested persons, or to unrepresented known interested persons themselves, together with notice of the proposed time and place of the hearing. At least four (4) business hours before the hearing is conducted, the applicant must submit a declaration to the Court setting forth the facts relating to the efforts to give such notice, if any, or facts supporting the conclusion (a) that it was impossible to give such notice, or

(b) that giving such notice would be detrimental to the estate and the persons interested in it. *[Rule 3.03 adopted January 1, 1997; amended effective January 1, 2003.]*

3.04 Rules Affecting Pleadings, Motions, And Papers

A. Governing Rules

The form, filing, and service of pleadings, motions, and other papers in civil law and motion, and discovery proceedings in family law and probate, are governed by Rules 201 *et seq.* and 301 *et seq.* of the California Rules of Court.

B. Amending The Pleadings

Amendment of pleadings, and motions for such amendment, must be in compliance with Rule 327 of the California Rules of Court and Code of Civil Procedure §473. In addition:

- (1) An amendment to designate an incorrectly named party by the correct name does not require a noticed motion, and may be obtained by ex parte application and order, unless the Court determines that substantial rights of said party are adversely affected.
- (2) An amended pleading is preferred over an amendment to a pleading, except when the amendment is for the sole purpose of correcting the name of a party (see paragraph 3.04.A(1), above).
- (3) Except as otherwise provided in these Rules for cases subject to Delay Reduction, whenever a pleading is amended after the filing of an at-issue memorandum, the Court will have discretion to strike the at-issue memorandum and vacate any trial date set thereon, unless the parties stipulate that earlier responsive pleadings are deemed sufficiently responsive to the amended pleading.

C. New Party Named As Cross-Defendant

Cross-complainants who name persons not already parties to the action as cross-defendants must comply with Rules 201.7 and 202 of the California Rules of Court.

D. Discovery Motions

The form, format, and service of discovery motions are governed by Rules 331 *et seq.* of the California Rules of Court, and by Code of Civil Procedure, Part 4, Title 3, Article 3 (beginning with CCP §2017).

E. Procedure After Demurrer Is Sustained With Leave To Amend

If, after a demurrer to a complaint or cross-complaint is sustained with leave to amend, an amended pleading is not filed within the time specified by the Court, the Court may dismiss the action or cross action on its own motion. If the Court does not dismiss the action on its own motion after expiration of the specified time, any party to the cause may apply ex parte for a dismissal order. Such application may be submitted to the Court without appearance by the moving party or notice to the other parties. (No filing fee will be required unless a hearing on the application is conducted.) *[Rule 3.04 adopted effective January 1, 1997; amended effective July 1, 2005.]*

3.05 Motions For Summary Judgment Or Summary Adjudication

All motions for summary judgment must comply with Rule 342 of the California Rules of Court and with Code of Civil Procedure §437c. Motions not adhering to those provisions may be continued to a future date certain by which time compliance is expected and which is convenient to the Court, or may be denied without prejudice. Motions for summary adjudication made pursuant to CCP §437c(f) that seek adjudication of issues beyond those noted in that subsection may be disregarded entirely. *[Rule 3.05 adopted effective January 1, 1997; amended effective January 1, 2003.]*

3.06 Continuances And Conduct Of Hearings On Motions And Other Applications For Orders

A. Continuances Of Hearings On The Law & Motion Calendar

- (1) The Court generally will grant a continuance of a hearing on the law & motion calendar if all counsel and parties in propria persona are in agreement that such hearing be continued, and are in agreement as to the date and time to which the matter will be continued.
- (2) To obtain such a continuance, the attorney or unrepresented party reporting the agreement must notify the judicial services coordinator, in person or by telephone, not later than 5:00 P.M., at least two (2) court days before the scheduled hearing. (For example, if the hearing is on a Monday then the telephonic notice must be given no later than 5:00 P.M. on the preceding Thursday.) The notifying party must also file, prior to the date and time of the hearing, a written notice confirming the agreement. Both the telephonic and written notice must state that all counsel and unrepresented parties are in agreement and must state the date and time to which the hearing is continued.
- (3) Upon receiving the telephonic notice, the judicial services coordinator will notify the appropriate judge of the agreement to continue. If for any reason the judge will not grant the continuance, the judicial services coordinator will immediately convey that information to the reporting attorney or party. In the absence of such response, counsel and parties can assume that the continuance is approved.
- (4) Violations of this Rule may result in the imposition of sanctions pursuant to Rule 227 of the California Rules of Court, Code of Civil Procedure §177.5, or any other appropriate authority.

B. Extended Hearing Rule

"Extended hearing" means a hearing that requires more than fifteen (15) minutes, total, to present and argue, unless otherwise defined by these Rules. If the attorney for any party determines that a matter set on the law & motion calendar is likely to require more than a total of 15 minutes, counsel must notify the judicial services coordinator and opposing counsel or unrepresented party, in person or by telephone, no later than the close of the third court day prior to the hearing date, that the matter will require an extended hearing, in which case the matter may be continued by the Court to another date and time certain.

C. Evidence At Hearing

Evidence at the hearing, including requests for judicial notice, will be governed by Rule 323 of the California Rules of Court.

D. Telephonic Appearances In Non-Evidentiary Civil Law & Motion And Probate Hearings

- (1) Rule 298 of the California Rules of Court governs telephonic appearances by counsel in non-evidentiary law & motion and in probate proceedings. The Court expects strict adherence to the requirements of both Rule 298 and this Local Rule. In addition to the notice requirements of Rule 298(d), and because the Court uses an outside vendor (currently “CourtCall”) for telephonic appearances in these matters, any attorney or party who intends to appear telephonically must make his or her request through the outside vendor directly. The current telephone number for making such requests is 1-888-882-6878. Counsel may check with the Court’s judicial services coordinator to confirm this telephone number, as it is subject to change.
- (2) The outside vendor will bill all participants directly, at prevailing rates. Costs associated with telephonic appearances are not taxable costs as authorized by Code of Civil Procedure §1033.5.
- (3) All requests for telephonic appearance must be made to the vendor by no later than 12:00 P.M. (noon) of the fifth (5th) court day prior to the scheduled hearing.
- (4) At the time of the hearing, every participant who has requested a telephonic appearance must contact the vendor at the telephone number provided on the vendor’s confirmation of the request. Telephonic appearances will be operator-assisted. The operator will bring in participants at the direction of the Court, and will remain on the line until the last case on the calendar for which a telephonic appearance has been requested. **In order to ensure a quality record of the proceeding, participants may not use pay, cellular, or speaker phones.**
- (5) Although the Court’s judicial services coordinator may notify the vendor when a matter that was previously set for telephonic appearance is taken off calendar, it is the responsibility of each participant to cancel his or her telephonic request by contacting the vendor directly. *[Rule 3.06 adopted effective January 1, 1997; amended effective July 1, 2005.]*

3.07 Preparation Of OrdersA. Duty To Prepare

In general, the duty to prepare orders is governed by Rule 391 of the California Rules of Court. In matters not governed by Rule 391, or in cases where the Court finds that the time constraints of Rule 391 are impracticable, the prevailing party on a motion must, within ten (10) calendar days of receipt of the Court's written or oral ruling, prepare a proposed order thereon and submit it to the opposing party for approval (as to matters of form only).

B. Approval; Procedure If Not Approved

- (1) The opposing party must either promptly approve or object to the proposed order, stating alternative proposed language. If the other opposing party fails to approve or object to the

order within ten (10) days after service, the party who prepared the order may then send it to the Court for signature. The order must be accompanied by a letter to the Court stating the date the order was sent to the opposing party, the opposing party's reason(s) for not approving it (if known), and a request that the judge sign the order. A copy of the letter to the Court must be served on the opposing party.

- (2) If the party who is required to prepare the order pursuant to Rule 3.07.A fails to do so, then the other party may prepare the order. The order may then be sent directly to the Court, without the approval of opposing counsel, along with a cover letter to the Court stating the applicability of this section; a copy of the cover letter and the proposed order must be served on all parties.
- (3) The Court will hold, for a period of five days, all orders that have not received the approval of the opposing party; after five days, if no objections have been received, the order will be signed.

C. Procedure When There Is Disagreement

If there is a disagreement between the parties concerning the accuracy of the order, either party may ask the Court, by letter, to resolve the disagreement by reference to the applicable portions of the hearing transcript. A copy of the letter must be delivered to all other parties at the time it is delivered to the Court. Attorney's fees and costs, including the cost of preparing the reporter's transcript, may be awarded thereafter based the merits of the matter.

D. Approval By Unrepresented Party

Unless otherwise ordered by the Court, the party preparing the proposed order need not obtain approval of the order from an opposing party who is unrepresented by counsel. The Court itself will review such proposed orders for accuracy. *[Rule 3.07 adopted effective January 1, 1997; amended effective January 1, 2003.]*

3.08 Procedures After Announcement Of Intended Decision Pursuant To CRC Rule 232

Following the filing of an "Announcement of Tentative Decision" or "Statement of Intended Decision", any document presented to the clerk for consideration by the appropriate judge prior to the entry of judgment will be delivered by the clerk, with the file, to the office of said judge. *[Rule 3.08 adopted effective January 1, 1997; amended effective January 1, 2003.]*

3.09 Procedures Regarding Applications For Extraordinary Writs

A. Form And Length Of Briefs In Support Of Or In Opposition To Writ Petitions

- (1) The form of briefs in support of or in opposition to writ petitions (regarding mandate and prohibition) must generally conform to rules specified for motions in both these Rules and the California Rules of Court, except that no brief, either in support of or in opposition to a writ petition, including its memorandum of points and authorities (but excluding exhibits, declarations, attachments, tables, and proof of service) may exceed thirty-five (35) pages in length, and no reply brief may exceed 20 pages. Leave of Court

to file a brief in excess of the limitations fixed by this Rule may be granted upon a showing of good cause; an application for such leave of Court must be made according to the procedures set forth in CRC Rule 313(d), and on such other conditions as the Court may impose.

- (2) A brief that exceeds 15 pages must include a table of contents, table of authorities, and an opening summary of argument.
- (3) Any paper that violates this Rule must be filed and considered in the same manner as a late-filed paper, and the Court, in its discretion, may impose other conditions and/or sanctions as a consequence of the violation.

B. Preparation Of Record

If a proceeding in prohibition or mandate includes a record for the Court's review that exceeds 25 pages, the record must be prepared for filing as follows: it must be copied onto double-sided pages, each page consecutively numbered, with three holes punched into the left-hand margin and all pages placed into a three-ring binder, the outside of which, on both the spine and front of the binder, must bear the caption of the matter and the case number. Upon receipt of the record, the clerk will affix a tag to the file indicating the location where the record is stored.

C. Service Of Petition Prior to Hearing

All petitions for writs of mandate, for prohibition, or for administrative mandamus or prohibition must be served upon the respondent in the same manner as a summons and complaint. Proof of service thereof must be filed with the Court prior to the hearing on any motion or order to show cause for issuance of the requested writ. *[Rule 3.09 adopted effective January 1, 1997; amended effective January 1, 2003.]*

CHAPTER 4: SETTING FOR TRIAL, AND TRIAL, IN CIVIL MATTERS

4.01 Setting General Civil Cases For Trial

A. Trial–Setting In Cases That Are Subject To Delay Reduction Rules

All general civil cases filed on or after July 1, 1993, or transferred to this Court by a Court in another jurisdiction on or after July 1, 1993, are subject to this Local Rule and to the time disposition standards adopted by the Court in Rule 2.03.B.

- (1) Policy Statement. The Government Code and the California Rules of Court mandate that trial courts actively manage and supervise the pace of litigation, from the date of filing to full disposition, by reference to specific procedures and guidelines. [Government Code §§ 68600 et seq.; CRC Rules 201.7 and 204.1 et seq.] In most cases, the Court will implement that mandate by conducting, at minimum, two (2) pre-trial conferences, described as follows:
 - (a) An Initial Case Management Conference, where the parties must be prepared to state that service of all pleadings has been effected on all parties, and to schedule arbitration if appropriate; and
 - (b) An Additional Case Management Conference, where the parties must be prepared to declare the case to be at issue; to identify all issues to be tried; to inform the Court as to all case management issues; to summarize the pertinent results of discovery activity; to address alternative dispute resolution and settlement; and to schedule arbitration, trial, or other proceedings. No at-issue memorandum is required to bring a civil action governed by this Local Rule onto the "civil active list".
- (2) Case Development Benchmarks. The Court adopts the following time periods for progression of general civil cases:
 - (a) Service of the Summons and complaint within 60 days of case initiation; filing of the proof of service of the Summons and complaint within 60 days of case initiation; and filing and service of responsive pleadings within 30 days of service of the complaint.
 - (b) Except to the limited extent permitted by CRC Rule 201.7(d), no extensions of the aforesaid times that are based on stipulation between the parties will be allowed. To the extent that stipulated extensions are permitted pursuant to CRC Rule 201.7(d), they must be in writing and filed promptly with the Court.
 - (c) Stipulated extensions of time for periods longer than permitted by statute will be allowed by the Court only upon ex parte application that 1) conforms to Rule 379 of the California Rules of Court and 2) demonstrates good cause.
 - (d) Approximately 80-90 days after case initiation, the Court will conduct a review of each general civil case in order to determine if the plaintiff has complied with the case development benchmarks described in item (a), above. If the plaintiff has not

complied, the Court, in its discretion and only after the plaintiff has been given notice and an opportunity to be heard, may impose sanctions.

- (e) Unless and until differentiated by the Court, each general civil case will be presumed to require no more than twelve (12) months between filing and disposition. [See CRC Rule 209; Standards of Judicial Administration §2.1]

(3) Scheduling And Noticing Conferences

- (a) The Initial Case Management Conference will be set by the clerk on the first case management calendar that falls no earlier than the 140th day after case initiation.
- (b) At the time the complaint is filed, the clerk of the Court will provide plaintiff with a form “Notice of Case Management Procedures” that will specify the date, time, and place of the Initial Case Management Conference. At the time of service of the summons on any party, plaintiff must also serve a complete copy of said Notice upon that party; and plaintiff must also serve a copy of the Notice on plaintiffs in intervention or plaintiffs in interpleader, within ten (10) days of being served with a complaint in intervention or interpleader. All cross-complainants must serve a copy of the Notice upon each cross-defendant at the time the cross-complaint is served.

(4) Other Case Management Proceedings

- (a) In its discretion, on a case-by-case basis and on timely notice to the parties, the Court may order show cause hearings to be conducted prior to the Initial Case Management Conference. The Court may require the personal appearance by all counsel of record or unrepresented parties at any such show cause hearings.
- (b) Nothing in these Rules will be construed to preclude a party from seeking preferential trial setting, by duly noticed motion filed and/or heard prior to the Initial Case Management Conference, as provided for in the Code of Civil Procedure.
- (c) Nothing in these Rules will be construed to preclude a party from seeking a referral to Judicial Arbitration, (pursuant to Rules 1600(a) or 1600(b) of the California Rules of Court and Rule 5.09 of these Rules) upon a duly-noticed motion filed and/or heard prior to the Initial Case Management Conference.
- (d) Nothing in these Rules will be construed to preclude a party from seeking early disposition of an uncomplicated case, upon a duly noticed motion filed and/or heard prior to the Initial Case Management Conference, as defined and provided for in Rule 209 of the California Rules of Court; any such motion must establish that the case is at-issue; that presentation of evidence will take no more than one court day; and that the matter will not require a jury.
- (e) Parties are hereby reminded of and encouraged to comply with the meet-and-confer provisions of Rule 212(f) of the California Rules of Court.

(5) Case Management Conferences

- (a) Not later than fifteen (15) calendar days prior to every Case Management Conference (including Additional Case Management Conferences), each party

must file, and serve on all other parties, a fully-completed case management conference statement prepared on Judicial Council Form CM-110.

- (b) At or immediately following the case management conference, the Court will issue an order addressing any further proceedings as well as current matters, including, if appropriate:
 - (i) Identity and representation of parties;
 - (ii) Nature of action;
 - (iii) Uncontested issues;
 - (iv) Contested issues (Note: this element will identify the issues to be tried and will supersede the pleadings in that respect);
 - (v) Whether or not the case is at-issue;
 - (vi) Bifurcation;
 - (vii) Cut-off dates for: general discovery, expert-related discovery, discovery-related motions, and general law and motion matters;
 - (viii) Referral to arbitration, alternative dispute resolution, or transfer to another court;
 - (ix) Assignment to or exemption from a case management program, as appropriate;
 - (x) Scheduling of further proceedings, including reference to arbitration, trial, settlement conference, and/or Additional Case Management Conference.
 - (xi) Scheduling of dates relating to exchange of witness and evidence identification; dates for jury deposit; and dates for filing and service of proposed verdicts, findings, jury instructions, and motions in limine; and
 - (xii) Sanctions for violations of these Rules, if any violations have occurred up to and including the time of the case management conference.
- (6) Non-Compliance With Delay Reduction Rules. Failure to appear at and/or failure to file appropriate required statements for any Case Management Conference scheduled under these Rules may result in the imposition of sanctions, the dismissal of the action, or the striking of responsive pleadings.

B. Trial-Setting In Cases Not Subject to Delay Reduction

All general civil cases filed before July 1, 1993 (and therefore not subject to the requirement of the Trial Court Delay Reduction Act) will be managed and will be set for trial on a case-by-case basis, as deemed appropriate by the Court.

C. Trial-Setting in Short Cause Matters

- (1) Definition. A short cause matter is one that the Court finds to be amenable to early disposition, that does not need a case management conference, and that will not require more than four (4) hours to try.
- (2) Manner Of Requesting Advanced Trial Date. If counsel or a self-represented party believes that a given case qualifies as a short cause matter, he or she may ask the Court to set an early trial date at the Initial Case Management Conference. However, such requests

will not be considered by the Court unless 1) all parties have appeared and the case is at issue, and 2) the requesting party, by way of the required conference statement, has established to the Court's satisfaction that the case meets the definition of a short cause matter. *[Rule 4.01 adopted effective January 1, 1997; amended effective July 1, 2005.]*

4.02 Changing Trial Date Once Assigned; And Special Settings

A. Dates For Trial Are Firm

All dates for trial are firm; no trial date will be changed without Court approval. Motions to advance a trial date, to reset or specially-set a case for trial, or to continue a trial date must be made on written notice to all parties who have appeared, and must be set for hearing.

B. Motions And Stipulations For Continuance Of Trial

- (1) A motion for continuance of a trial date must be noticed for hearing as soon as possible after the need for a continuance has been ascertained. No continuance will be granted except upon an affirmative showing of good cause (CRC Rule 375; Standards of Judicial Administration, §9).
- (2) A stipulation to continue a trial, or to vacate a trial date and calendar the matter for re-setting, may be accepted in lieu of a motion as long as 1) all parties agree in writing; 2) the terms of the written stipulation set forth good cause pursuant to §9 of the Standards of Judicial Administration and CRC Rule 375(a), and further state that the stipulation is subject to approval by the Court; and 3) the stipulation is accompanied by a proposed Order.
- (3) The Court may refuse to grant a requested trial continuance if it is not timely, or if it fails to meet the requirements specified in this Subpart 4.02.B.

C. Effect Of Continuance

If a trial date is continued by stipulation or at any time other than during a case management conference, the matter will be set for further proceedings on the regular case management calendar, and at least five (5) days before that date each party must file a current and complete case management statement (JC Form CM-110). *[Rule 4.02 adopted effective January 1, 1997; amended effective January 1, 2003.]*

4.03 Procedures For Telephonic Appearances At Case Management And Pre-Trial Conferences

A. Who May Appear; And Manner Of Request

- (1) In general, counsel for parties may appear telephonically at all Case Management or pre-trial conferences (other than Settlement Conferences). Self-represented parties are authorized to appear telephonically at such conferences only with prior permission of the Court and only upon a showing of good cause.
- (2) Telephonic appearances at conferences will be handled by an outside vendor (currently "CourtCall"). Requests by counsel to appear telephonically at any of the aforesaid

conferences must be submitted directly to the vendor, not to the Court. The current contact number of the vendor is 1-888-882-6878. Participants may check with the Court's judicial services coordinator to confirm this telephone number, as it is subject to change.

B. Time Limit For Requests To Appear Telephonically

All requests for telephonic appearance must be made directly to the vendor by no later than 12:00 P.M. (noon) of the fifth (5th) court day prior to the scheduled conference.

Timeliness of the request for telephonic appearance is of the essence; failure to submit the request by the required date and time may result in denial of the request and/or a requirement that counsel appear in person at the conference.

C. Billing; And Non-Taxability Of Costs

The outside vendor will bill all participants directly, at prevailing rates. Costs associated with telephonic appearances are not a taxable cost as authorized by Code of Civil Procedure §1033.5.

D. Effect of Failure to File Conference Statement

In the Court's discretion, a request to appear telephonically may be denied if counsel has failed to file and serve a conference statement as may be required by the Rules of Court.

E. Order Of Appearance

Order of appearance on the calendar is not determined by receipt of the telephonic request. The Court will fix the order, and cases will be taken as they appear on the calendar; cases will not be taken out of order except upon a showing of good cause.

F. Reserved

G. Initiation Of The Call; Standby; And Type Of Phone Used

At the time of the scheduled conference, telephonic participants must contact the vendor at the telephone number provided on the confirmation of the telephonic request.

Telephonic appearances will be operator-assisted. The vendor's operator will remain on the line throughout the conference calendar, and will bring in the participants at the direction of the Court. Counsel must stand by until their matter is called; if the participant is not available when called, the Court may treat his or her absence as a non-appearance and impose appropriate sanctions. In addition, if a participant is not available when called, the Court will conduct the conference despite the absence, and counsel will be billed for the call. **In order to assure a quality record of the proceeding, counsel may not use pay, cellular, or speaker phones.**

H. Conducting The Telephonic Proceeding

After the telephone connections are confirmed by the outside vendor, the judge will call the case. The judge will ask for appearances and will direct the manner in which the conference proceeds. Each time a participant speaks, he or she must identify himself or herself for the record. When the judge informs the participants that the hearing is completed, the participants may disconnect. The judge will signal the vendor's operator, who will connect the next call.

I. Cancellation of Telephonic Requests

Although the Court's judicial services coordinator may notify the outside vendor when a matter that was previously set for telephonic conference is dropped from calendar or continued, it is the responsibility of each participant to cancel his or her telephonic request, by contacting the vendor directly.

J. Requirement Of Compliance; Failure To Comply

Telephonic appearances at conferences are a privilege extended by the Court. All provisions of this Rule 4.03 require strict compliance. Repeated failures to comply by any given individual may result in permanent denial of the privilege. *[Rule 4.03 adopted effective January 1, 1997; amended effective July 1, 2005.]*

4.04 Duties If Case Settles

Whenever a case that has been assigned a trial date settles, then the attorneys or unrepresented parties must immediately notify the Court of the settlement. The plaintiff bears the primary obligation to so notify the Court. Notification may be by telephone to the clerk, but, in such case, must be followed within five (5) days by a confirmation letter, copied to all parties. Such notification to the Court will cause the clerk to vacate any trial date and to remove the action from the master calendar and civil active list, and may result in the setting of a further case management conference, to assure that the case is dismissed or judgment entered. *[Rule 4.04 adopted January 1, 1997; amended effective January 1, 2003.]*

4.05 Demand For Jury Fees; Waiver Of Jury; Refunds

A. Payment Of Jury Fees Before And During Trial

A party who has made a timely demand for a jury trial must deposit with the clerk, at least twenty-five (25) days prior to the date set for trial [Code of Civil Procedure §631(a)(5)], or within five (5) days of notice that the deposit is required [CCP §631(b)], or at least five (5) days prior to the date set for trial in an unlawful detainer action [CCP §631(a)(5)], a sum equal to the amount of one day's jury fees payable under the law (which includes average mileage and transportation), as determined by the Court.

Thereafter, at the beginning of the second trial day and each succeeding trial day, the courtroom clerk will ask the party or parties who demanded the jury to pay a sum equal to one day's actual jury fees plus the accrued mileage of and/or transportation for the jury, if any there be. Each such request must be honored on the day it is made.

B. Notice Of Waiver Of Jury; Refund Of Jury Fee Deposit

- (1) A party who has demanded a jury trial and later decides to waive such demand must give prompt written notice of the waiver to the clerk and to all other parties.
- (2) Requests for refunds of jury fees must be submitted in writing by the depositing party, within 20 days from the date that the jury is waived, or from the date that the action is settled or dismissed or the trial is continued (CCP §631.3).

C. Effect Of Failure To Deposit Or Pay Jury Fees

Failure of a party who has demanded a jury trial to deposit or pay jury fees in a timely manner, as prescribed by law and these Rules, whether prior to or during trial, will be deemed a waiver by that party of the right to trial by jury. The adverse party or parties will be notified promptly, by the clerk, of the demanding party's failure to timely deposit or pay jury fees.

D. Deposit Of Jury Fees After Waiver By Demanding Party

When the party who has demanded a jury trial waives or is deemed to have waived a jury, the other party or parties will have up to five (5) court days from the date that the clerk mails the notice of waiver, to deposit one day's jury fees. (**Note:** this five-day period is not subject to extension pursuant to CCP §1005 or any other provision of law.) However, if the waiver occurs within five (5) days of the commencement of the trial, or if it occurs after trial has commenced, then the other party or parties must make the deposit on the first or next trial day.

E. Effect Of Failure By Any Party To Pay Jury Fee Deposit

If the other parties fail to deposit fees as prescribed herein, after waiver by the party who has demanded a jury trial, then the other parties will be deemed to have waived the right to a jury trial, and the case will be tried without a jury.

F. Jury Trial After Untimely Request

Notwithstanding any other provision of these Rules, the Court may order, upon a showing of good cause, that the deposit of jury fees take place at any time prior to trial; and the applicant, upon deposit of jury fees in accordance with such order, will be entitled to trial by jury (CCP §631.3(d)).

G. Multiple Deposits Of Jury Fees

If more than one party demands a jury, each such party will be required to deposit jury fees, unless jury fees have previously been deposited.

If more than one party makes a timely deposit of fees, then the clerk will retain only the first such deposit received, and will refund all others. [*Rule 4.05 adopted January 1, 1997; amended effective January 1, 2003.*]

4.06 Parties Not Present For TrialA. Default Judgments When Matter Is Set For Trial

If a party has been served and has not answered, but neither default nor default judgment has been entered against that party and the action has been set for trial as to other parties, then, on proper application, judgment may be entered against the defaulting party in accordance with Code of Civil Procedure §§585 or 586.

B. Non-Appearance Of Answering Party

If a party has been served and has answered, but does not appear for trial, and appropriate notice of time and place of trial has been given, then the Court will proceed with the case in accordance with Code of Civil Procedure §594.

C. Dismissal Of Named Parties Not Served

If a named party has not been served, then ordinarily, at or before the time of trial, the plaintiff will be required to dismiss, without prejudice, as to that party. *[Rule 4.06 adopted effective January 1, 1997; amended January 1, 2003.]*

4.07 Conduct Of Civil Jury Trials

A. Challenging Jurors For Cause

Upon completion of voir dire examination, whether of all prospective jurors in the jury box or of an individual prospective juror, a party must state whether he or she “passes for cause”.

B. Peremptory Challenges

If there are more than two sides in a trial, and one side is allotted substantially more peremptory challenges than any other side, then the trial judge will require the side with the greater number of challenges to exercise every second challenge, i.e., to alternate with each of the other sides, rather than rotate the challenges from one side to a second side to a third side.

C. Presentation Of Exhibits To Jurors

Exhibits admitted into evidence will be handed to jurors in the jury box only after leave to do so is obtained from the trial judge. Exhibits such as writings, which are not subject to cursory examination, ordinarily will not be provided to jurors until they retire to the jury room after the cause has been submitted.

D. When Jury Instructions Are To Be Submitted

- (1) Pursuant to Code of Civil Procedure §607a, all jury instructions covering the law as disclosed by the pleadings must be delivered in writing to the trial judge before jury voir dire commences, unless indicated by the judge. At the same time, copies thereof must be served upon all opposing counsel or unrepresented parties.
- (2) Thereafter, but before commencement of argument, any additional proposed instructions upon questions developed by the evidence and not disclosed by the pleadings may be delivered to the trial judge and served upon the opposing side or sides.

E. Duty To Prepare, Submit And Modify BAJI Instructions

- (1) The parties may designate their desired standard BAJI instructions by giving the trial judge a list of same, referenced by number. The judge will provide the form of such standard instructions.
- (2) Desired BAJI instructions in which deletions, strikeouts, insertions or other changes have been made must be referenced by number, and must carry a notation that there has been a modification thereto; and a copy of the instruction, as modified, must be provided to the trial judge.

F. Form Of Proposed Jury Instructions

All proposed jury instructions must conform to the requirements of Rules 229(a) and (b) of the California Rules of Court.

G. Special Verdict And Finding Forms

- (1) A party who requests a special verdict or special findings must, in connection with requested instructions, comply with Rule 230 of the California Rules of Court, and must serve and file such request or proposed special findings forms before jury voir dire commences.
- (2) A special verdict or special findings form must be drafted so as to require, if possible, an answer of "yes" or "no", or, if that is not possible, then to require the most concise answer that will be sufficient. *[Rule 4.07 adopted effective January 1, 1997; amended effective January 1, 2003.]*

4.08 Setting Unlawful Detainer Cases For Trial

A. Case Disposition Standards

The Court's disposition goal for unlawful detainer cases is to have one hundred percent (100%) of such cases disposed of within ninety (90) days after filing. This Rule 4.08 establishes target dates intended to assist the parties and the Court in achieving that goal.

B. Filing Proof Of Service Of Summons And Complaint

- (1) Within fifteen (15) days after filing an unlawful detainer complaint, the plaintiff must file a proof of service of the summons and complaint, or an application for a posting order, unless a responsive pleading has been filed.
- (2) Failure of the plaintiff to comply with the aforesaid requirement, in the absence of a filed response, will result in the issuance of an order to show cause re status; the order to show cause will be issued within 10 days of the date that the proof of service or posting application was due. Attendance of all parties and counsel who have appeared in the action will be required at the hearing, so that the Court can determine the following: the status of the case; whether or not the case is ready for trial; time limits; and possible sanctions, in the absence of good cause shown, for failure to serve the complaint and/or to file a proof of service.

C. Memorandum To Set

- (1) Within twenty-five (25) days after filing an unlawful detainer complaint, the plaintiff must file a memorandum to set the matter for trial, unless a request for entry of default or request for dismissal has been filed. By filing a memorandum to set, a party indicates that the case is at issue and will be ready to go to trial on the date assigned.
- (2) Failure of the plaintiff to comply with the aforesaid requirement will result in the issuance of an order to show cause re status; the OSC will be issued within 10 days of the date that the trial-setting memorandum was due. Attendance of all parties and counsel who have appeared in the action will be required at the hearing, so that the Court can determine the status of the case; whether or not the case is ready for trial; time limits; and

possible sanctions, in the absence of good cause shown, for failure to file a trial-setting memorandum.

D. Setting For Trial

- (1) Court Trials. After the trial-setting memorandum is filed, and if the proof of service complies with these Rules in all respects, and if no jury trial is demanded, then the clerk, no sooner than five (5) days thereafter, will assign the case for court trial on the earliest available date within the next twenty (20) days, and will promptly notify all parties in writing of the trial date.
- (2) Jury Trials. If a jury trial is demanded, then the clerk will assign the earliest available date for settlement conference (to be held within the next ten (10) days), and will assign the earliest jury trial date within the next twenty (20) days, and will promptly notify all parties in writing of both dates.

E. Case Closure

Within six months after a clerk's judgment for restitution is entered, the plaintiff must set the case for ex parte prove-up hearing, unless the money damages are dismissed. Plaintiff's appearance will not be required if a declaration is submitted pursuant to Code of Civil Procedure §§ 585(b) and (d). *[Rule 4.08 adopted effective January 1, 1997; amended effective January 1, 2003.]*

CHAPTER 5: MISCELLANEOUS CIVIL RULES

5.01 Attorney Fees In Civil Actions Or Proceedings

A. Promissory Notes And Contracts Providing For Fees

In actions on promissory notes and contracts providing for payment of attorney fees, whenever a prevailing party is entitled to recovery of reasonable fees then the following schedule will be considered by the Court in awarding such fees:

- (1) Default Action: exclusive of costs and interest,
 - (a) Twenty-five percent (25%) of the first two thousand dollars (\$2,000) awarded as damages, with a minimum fee of three hundred dollars (\$300.00);
 - (b) Twenty percent (20%) of the next four thousand dollars (\$4,000);
 - (c) Fifteen percent (15%) of the next four thousand dollars (\$4,000);
 - (d) Ten percent (10%) of the next ten thousand dollars (\$10,000);
 - (e) Five percent (5%) of the next thirty thousand dollars (\$30,000); and
 - (f) Two percent (2%) of amounts in excess of the first fifty thousand dollars (\$50,000), on the next one hundred thousand dollars (\$100,000.00); and
 - (g) The Court, in its discretion, will fix fees for recoveries in excess of one hundred and fifty thousand dollars (\$150,000.00).
 - (2) Contested Action: the same amount as computed under subpart 5.01.A(1), above, increased by reasonable compensation (computed on an hourly or per-day basis) for any additional research, general preparation, trial, or other services, as may be allowed by the Court.
- B. Attorney Fees When Defendant Is The Prevailing Party
- When the defendant is the prevailing party, the fees will be reasonable compensation (computed on an hourly or per-day basis) for research, general preparation, trial, or other services rendered, as may be allowed by the Court.
- C. Clerk's Calculation Of Reasonable Attorney Fees
- When a prevailing party is entitled to the recovery of reasonable attorney fees in an otherwise appropriate clerk's judgment, the clerk will include attorney fees computed pursuant to the fee schedule included in this Rule 5.01.
- D. Determination Of Attorney Fees In Excess Of Schedule
- When a party claims attorney fees in excess of those allowed by this Rule, then an application for attorney fees must be made to the Court; the application must be supported by declarations setting forth the factual basis for the claimed fees. The fees will be fixed thereupon by the Court. *[Rule 5.01 adopted January 1, 1997; amended effective January 1, 2003.]*

5.02 Attorney Fees In Cases Involving Minors Or Incompetent Persons

A. Attorney Fees In Minor's Compromise

On any application for approval of a compromise under Code of Civil Procedure §372 or Probate Code §3500, the attorney fees hereafter set forth will be considered reasonable under normal circumstances. In computing fees on the basis of the amount of the judgment or settlement, special damages allotted to the parents and the costs paid or incurred by any attorney must be deducted from the amount of the judgment or settlement before the fees are calculated. The fee schedule is as follows:

- (1) Settlement without the commencement of a trial: twenty-five percent (25%).
- (2) Recovery of judgment or obtaining settlement after trial has commenced: thirty-three and one-third percent (33-1/3%).
- (3) Settlement after filing appellant's opening brief on appeal: forty percent (40%).

B. Cases Involving Unusual Circumstances

In cases involving unusual circumstances or conditions, the foregoing fees may be subject to variation, as ordered by the Court, to meet such circumstances or conditions.
[Rule 5.02 adopted effective January 1, 1997; amended effective January 1, 2003.]

5.03 Compromise Of Claim Of Minor Or Incompetent Person

A. Use Of Mandatory Judicial Council Forms

Requests for Court approval of compromise of a claim of a minor or incompetent person will not be considered unless submitted on a fully-completed Judicial Council Form MC-350. The Petition must be accompanied by a proposed order approving the compromise, prepared on Judicial Council Form MC-351.

B. Order To Deposit Money; Deposit And Receipt For Deposit

- (1) Order to Deposit Money: If the order approving the compromise includes an order for deposit of funds into a blocked account, the applicant must also submit to the Court, along with the petition and approval order, a separate order to deposit the funds, prepared on Judicial Council Form MC-355.
- (2) Deposit and Receipt: Petitioner or counsel must deposit the subject funds as ordered within 48 hours of receipt, and must file a receipt from the depository, on Judicial Council Form MC-356, within 15 days thereafter.

C. Withdrawal Of Funds

If a court order for deposit of funds for the benefit of a minor does not allow for withdrawal without further order upon the minor's eighteenth (18th) birthday or thereafter, then a petition for withdrawal of funds so deposited will be allowed only according to Local Rule 15.19.E.2(f), et seq., and must be submitted on Judicial Council Form MC-357. When the attorney for the petitioner was allowed fees at the time of settlement, no attorney fees incidental to securing such withdrawal order will be awarded, except for good cause.

D. Presence Of Petitioner And Minor Or Incompetent Person At Hearing

The presence of the petitioner and the minor or incompetent person is required at the hearing on a petition for approval of any compromise in excess of Ten Thousand Dollars (\$10,000), unless, in advance of the hearing, good cause for non-appearance is established to the Court's satisfaction, by a letter request seeking to excuse that person's attendance. In weighing the request, the Court will consider the following:

- (1) Amount of the settlement;
- (2) Policy limits;
- (3) Extent of the injury and the need for future medical care related to the injury;
- (4) Extent of residual injuries (including cosmetic and/or psychological injury);
- (5) Liability;
- (6) Travel distance for the minor or incompetent person and his or her guardian, including consideration of any disability which makes travel difficult; and
- (7) Interruption of education. *[Rule 5.03 adopted effective January 1, 197; amended effective January 1, 2003.]*

5.04 Form Of Judgment**A. Required Elements Of Formal Judgment**

In drafting forms of judgment for the trial judge to sign, counsel must:

- (1) Clearly show the full names of the parties for whom and against whom the judgment is rendered, including their legal capacities as plaintiffs, defendants, cross-complainants and cross-defendants;
- (2) Refer to full names as they appear in the caption of the initial pleadings, or obtain an order amending the pleadings in respect to such names; and,
- (3) Unless costs have already been awarded in a specific amount, leave a blank space for insertion of any costs, as follows: "and costs in the sum of \$ _____". The clerk of the Court will enter the amount of costs claimed after a timely memorandum of costs has been filed, and after a ruling upon any motion to tax costs.
- (4) All judgments must be full and complete. Judgments that have exhibits are discouraged and may not be accepted. If such judgment is accepted, there must be a place for signature of the judge at the end of the attached exhibit.

B. Submission Of Proposed Judgment To The Court

When required by the Court, or when a proposed judgment is required by Rule 232 of the California Rules of Court, counsel must lodge the proposed judgment with the clerk. The proposed judgment must be entitled "Proposed Judgment" and must bear an attached proof of service indicating that a copy has been served upon all counsel and unrepresented parties. At the same time that the proposed Judgment is lodged with the clerk, counsel must also lodge therewith the original form of the judgment. The original judgment must be in the same form and have the same content as the proposed judgment,

except that it must be entitled "Judgment", and must be suitable for signature by the judge. The clerk will mark the proposed judgment as having been received, and will retain it as well as the original judgment, unmarked, in the Court's file. After the requisite period of time has elapsed pursuant to Rule 232(c) of the California Rules of Court, the clerk will present the file to the judge so that the judgment may be signed, if appropriate. *[Rule 5.04 adopted January 1, 1997; amended effective January 1, 2003.]*

5.05 Form Of Stipulated Judgment

The Court will not sign a judgment that is presented as part of a stipulation for judgment, whether or not the proposed judgment is included in the body of the stipulation or is an attachment thereto; any proposed judgment that is submitted upon stipulation of the parties must be in the form of a separate document. *[Rule 5.05 adopted January 1, 1997; amended effective January 1, 2001.]*

5.06 Appeal From Decision Of Labor Commissioner Under Labor Code Section 98.2

A. Required Documents

Any party who files a notice of appeal of an order, decision, or award of the Labor Commissioner pursuant to Labor Code §98.2, must also file the following with the clerk of the Court:

- (1) A copy of the complaint and of any answer filed with the Labor Commissioner; and
- (2) A complete copy of the order, decision, or award of the Labor Commissioner, which must include, if provided by the Labor Commissioner, a summary of the hearing and the reasons for the decision; and,
- (3) A proof of service upon the Labor Commissioner of a copy of the notice of appeal.

B. Setting For Hearing

The clerk of the Court will set the matter for hearing de novo only upon the filing of the papers prescribed by subpart 5.05.A, above.

C. Determining Filing Fee

A notice of appeal filed pursuant to Labor Code §98.2 will be treated as the first paper for purposes of determining the filing fee. *[Rule 5.06 adopted effective January 1, 1997; amended effective January 1, 2003.]*

5.07 Settlement Conferences

A. Required Conference

- (1) Civil cases that have an estimate for trial in excess of one full day, whether or not subject to the Trial Court Delay Reduction Act, may be set for settlement conference, at the discretion of the Court. The settlement conference will be held not earlier than ninety (90) days prior to trial, unless otherwise stipulated by the parties, in writing.
- (2) Any matter may be voluntarily submitted to the Court for settlement conference.

B. Attendance And Preparation

At the settlement conference, all parties must:

- (1) Be prepared to make a bona fide settlement offer;
- (2) Have all principals or clients either in attendance or available by telephone, unless excused in advance for good cause shown, after notice to all other parties that a request to be excused will be made (requests for non-appearance may be made by letter);
- (3) Produce memoranda of items of any special damages claimed; and
- (4) Have available any and all medical reports (if a personal injury is claimed), depositions, photographs, records, diagrams, maps, bills, contracts, memoranda and other documents pertinent to settlement of the case.

C. Settlement Conference Statement

No later than five (5) calendar days prior to the date fixed for the settlement conference, the parties must lodge with the Court, and must serve upon all other parties, a brief statement of the facts and the law of the case. These statements will not become a part of the Court's file unless so ordered.

D. Duty Re Settlement

If a settlement conference has been calendared and the matter is resolved prior thereto, the settlement conference will not be dropped from calendar unless and until the parties have filed settlement papers or a dismissal of the action, and have informed the clerk of the Court that the matter can be dropped from calendar. If neither dismissal nor settlement papers have been filed prior to the conference, the matter will be returned to the case management calendar for status review. *[Rule 5.07 adopted effective January 1, 1997; amended January 1, 2003.]*

5.08 Sanctions

A violation of these Rules of Court constitutes a violation of a lawful court order, as that term is used in Code of Civil Procedure §177.5, and may subject the party and/or counsel to sanctions thereunder or as otherwise provided by law. In addition to sanctions authorized by the Code of Civil Procedure, the Court adopts and incorporates herein the provisions of Rule 227 of the California Rules of Court. Any request for money sanctions must be made upon advance notice, in writing, unless ordered on the Court's own motion, in which case notice need not be in writing. *[Rule 5.08 adopted January 1, 1997; amended effective January 1, 2003.]*

5.09 Arbitration

A. General Provisions

Arbitration pursuant to Rule 1600 et seq. of the California Rules of Court is subject to the provisions of CRC Rule 1600.5 (exemptions) and of these Local Rules, and will be conducted as follows: (1) upon an order of the Court pursuant to Code of Civil Procedure §1141.11(b); (2) upon stipulation of all parties to non-binding arbitration; (3) upon

stipulation of all parties to binding arbitration; (4) upon the filing of an election by a plaintiff, provided that plaintiff agrees that the arbitration award will not exceed \$50,000; (5) in all actions where the amount in controversy does not exceed \$50,000 as to any plaintiff. A stipulation or election for arbitration pursuant to this Rule ordinarily must be made no later than the date of the initial status conference.

B. Arbitration Administrator

The manager of ancillary court services is designated as the Court's arbitration administrator. The Court reserves the power to modify this designation, without notice, as needed.

C. Disclosure Notice; Declination Of Arbitrator

- (1) Within five (5) days of receiving a notice of assignment to arbitration, each party must file, and deliver directly to the nominated arbitrator, a notice that discloses the following:
 - (a) Whether or not any party is proceeding in forma pauperis.
 - (b) Whether or not this is a lengthy hearing matter (as defined hereinafter). If any party indicates that a lengthy hearing will required, the arbitrator must contact the parties, as promptly as possible, in order to determine the estimated length of the hearing and to negotiate his or her hourly rate for the anticipated lengthy hearing.
- (2) The arbitrator will have fifteen (15) days, from the date of the administrator's notice of the appointment, to file a written declination of the appointment. Failure to file a declination will be conclusive of the arbitrator's acceptance of the appointment.

D. Procedure After Declination Of Arbitrator

Upon the filing of a declination by the arbitrator, the matter will be referred back to the arbitration administrator for re-assignment. If the panel of arbitrators has been exhausted, the administrator will set the matter on the case management calendar, to be heard within forty (days) of the filing date of the declination.

E. Time Of Arbitration Hearing

Arbitration hearings must be conducted no sooner than 35 days and no later than ninety (90) days from the effective date of the assignment to the arbitrator.

F. Continuances

In no case may an arbitration hearing be continued to a date later than ninety (90) days after the effective date of assignment to the arbitrator, except by order of the Court, made on application and for good cause shown in accordance with Rule 1607 of the California Rules of Court.

G. Arbitration Active List; And Periodic Reviews

When a case is assigned to arbitration, whether by stipulation or by order, it will be placed on the arbitration active list forthwith, and the arbitration administrator will cause the matter to be set for review on the case management calendar, within one hundred (100) days from the effective date of the assignment or no less than thirty (30) days prior to any scheduled trial date, whichever first occurs. With respect to cases not arbitrated in a timely manner, or for which the arbitrator declines to serve, the administrator will

proceed as required in Rule 1605(b)&(c) of the California Rules of Court, and will calendar the matter for review on the next regularly- scheduled case management calendar that will afford the parties at least fifteen (15) days notice.

H. Arbitration Panel

The presiding judge will designate the panel of arbitrators. Each person appointed to the panel will serve at the pleasure of the Court. The panel of arbitrators may include attorneys from jurisdictions outside of Siskiyou County.

I. Length Of Arbitration Proceedings

- (1) Except as provided hereafter, arbitration hearings must not exceed three (3) hours, after which time the arbitrator is authorized to terminate the proceedings and make his or her award based upon the law and evidence thus far received. At the sole discretion of the arbitrator, the hearing may be extended beyond three hours in order to bring the matter to an orderly conclusion; however, no additional compensation will be available to the arbitrator under these Rules for such an extension of hearing.
- (2) If any party believes that the hearing will require more than three (3) hours (any such matter must be designated as a "lengthy hearing"), that party may obtain permission for such lengthy hearing in one of the following ways:
 - (a) By filing, at least fifteen (15) court days before the hearing, a written stipulation between the parties and the arbitrator that they all agree to a lengthy hearing; said stipulation must provide for payment by the parties of a specified reasonable hourly rate of compensation to the arbitrator for any arbitration in excess of three (3) hours; or,
 - (b) By obtaining an order, on duly noticed motion, that shows cause for a lengthy hearing and that specifies the reasonable rate of compensation to the arbitrator for each hour of hearing in excess of three (3) hours; such motion must be made to the Court before the date by which the matter is required to have been completely arbitrated.

J. Arbitration Fees

- (1) Standard Arbitration: Except as may be provided elsewhere in these Rules, an arbitrator's fee in the total amount of one hundred and fifty dollars (\$150.00) will be ordered as a charge upon the Court, and will constitute the sole compensation for any arbitration hearing conducted pursuant to Rule 5.09(I)(1) of these Rules. At the time the arbitrator is appointed, the arbitration administrator will provide the arbitrator with a claim form, to be completed by the arbitrator and submitted for payment when the arbitrator's award is filed with the Court. The costs of the arbitration will be awarded as costs to the prevailing party.
- (2) Lengthy Arbitration: The reasonable compensation for a lengthy hearing must be fixed by agreement between the arbitrator and the parties to the arbitration, and must be limited to a reasonable hourly rate for each hour of hearing time in excess of three (3) hours. The parties are required to comply with the following provisions regarding any lengthy arbitration:

- (a) If a dispute arises concerning the arbitrator's fee, then any affected party, including the arbitrator, may file and duly notice a motion to obtain a Court resolution of that dispute. The time incurred by the arbitrator in making or defending such motion will be considered by the Court in determining the reasonable compensation.
- (b) The arbitrator's fee must be paid in full within ten (10) days after he or she issues an award. If not paid, the arbitrator will have a lien in the amount of any unpaid fees upon the settlement or judgment entered in the subject action.
- (c) The arbitrator, in his or her discretion, may require the parties to make a deposit on account, in advance of the hearing, for the anticipated fees, the amount of which must be divided equally between all parties. Any party who prevails in the action and who has paid the arbitrator on account may recover those fees as costs.
[Rule 5.09 adopted effective January 1, 1997; amended effective January 1, 2003.]

5.10 Default Prove-Ups

A. Manner Of Presentation

- (1) Except for default cases in which the clerk of the Court may enter judgment without review by a judicial officer [Code of Civil Procedure §585(a)], and cases in which plaintiff seeks to quiet title pursuant to CCP §764.010 (see Rule 5.11, below), applications for entry of default judgment and evidence in support thereof may be presented either in written form or by oral testimony.
- (2) Affidavits and declarations presented in support of a prove-up application must comply with the requirements of CCP §585 and §585.5.
- (3) If a prove-up by oral testimony is desired, the plaintiff must apply to the clerk of the Court for a hearing, which will be set on the regular civil law and motion calendar.

B. Evidence On Prove-Up, Generally

For purposes of default prove-ups, allegations in the complaint or cross-complaint, if applicable, are not deemed proved because of the failure of the adverse party to answer. Rather, proof must be presented by competent evidence with respect to all essential elements of the causes of action to be proved. Mere conclusions are insufficient. Affidavits and declarations must show, affirmatively, that the affiant or declarant is competent to state those things that appear therein. Generally, the Court will use the same standard for assessing the quality and sufficiency of the evidence as it would apply in a contested proceeding. [CCP §585(d); Harris v. Cavasso (1977) 68 CA3d 723; Devlin v. Kearny Mesa AMC (1984) 155 CA3d 381.] *[Rule 5.10 adopted effective January 1, 1997; amended effective January 1, 2003.]*

5.11 Prove-Up In Quiet Title Proceedings

The Court will not enter judgment by default in any action to quiet title. [Code of Civil Procedure §764.010.] An application for entry of judgment in such action must be set for hearing on the civil law and motion calendar. At the hearing or by papers filed prior

thereto, the applicant must demonstrate that all parties have been served and have either appeared or failed to appear; and the applicant must comply with the provisions of CCP §585(c). At the hearing on the application, the applicant must present such oral and documentary evidence as may be necessary to prove his or her claim to title. *[Rule 5.11 adopted January 1, 1997; amended effective January 1, 2003.]*

5.12 Obtaining Default Judgments Pursuant To Service By Publication

A. Obtaining An Order For Service By Publication

Applications for service by publication must be submitted to the clerk of the court for ex parte approval by a judicial officer, and must be supported by one or more factual declarations describing all efforts to locate the other party. The Court will not grant the application unless it appears from one or more supporting declarations that the petitioner has exercised all due diligence in attempting to locate the other party. (*Olvera v. Olvera* (1991) 232 Cal.App.3d 32.) Petitioner's due diligence search may include the following, as appropriate:

- (1) Recent inquiries of relatives and friends of the other party, and of other people likely to know his or her whereabouts;
- (2) Searches of relevant telephone directories; tax rolls; DMV rolls; and records of the Registrar of Voters.

B. Publication; And Entry Of Default

Upon receiving the signed order for publication, the petitioner must cause the summons to be published in a newspaper of general circulation in the State of California that is most likely to give actual notice to the other party, pursuant to Code of Civil Procedure §415.50 (i.e., the summons must be published once a week for four consecutive weeks). Upon completion of publication, the petitioner must all file the proof of publication and the request to enter default. The clerk will then determine whether service is complete and, if so, will enter default. (A hearing on the request to enter default may be required when the circumstances so merit.) After default has been entered, the petitioner may apply for a default judgment as described in the preceding section.

C. Applications For Orders For Alternative Service By Publication Where Plaintiff/Petitioner is Indigent

An indigent plaintiff/petitioner may apply to the Court for an alternative manner of publication, other than publication in a California newspaper of general circulation. A plaintiff/petitioner may be eligible for indigent relief when a prior fee waiver has been granted in the same action. The petitioner must submit, for the Court's review, an application and declaration for alternative publication, stating that the Court has granted a fee waiver and the reasons that the applicant cannot now afford the cost of publication. After reviewing the application and the file, the Court may order alternative service of process; require a hearing to determine Petitioner's ability to pay; or deny the request. *[Rule 5.12 adopted effective January 1, 1997; amended effective January 1, 2003.]*

5.13 Small Claims Court; Appearance By Plaintiff; Dismissal

A. Statement Of Policy

The goal of the Court is to process small claims cases in the most expedient manner that is fair to all concerned. The Court aims to achieve disposition of 100 percent (100%) of small claims cases within thirty (30) days after filing when all defendants reside in Siskiyou County; and within sixty (60) days after filing when any defendant resides outside of Siskiyou County. Small claims cases are scheduled for trial within these timeframes whenever practicable.

In many cases, service cannot be completed upon the defendant before the scheduled hearing date. If the plaintiff contacts the Court prior to the hearing date, the hearing date will be continued for a reasonable amount of time to allow for proper service upon the defendant.

B. Duty Of Plaintiff To Appear Or Request Continuance

The Court will dismiss, without prejudice, any small claims action for which there is no appearance by the plaintiff at the scheduled hearing, unless the plaintiff contacts the clerk of the Court in advance of the hearing date, either by telephone or in writing, to request a continuance. At the time the complaint is filed, the clerk of the Court will provide plaintiffs with written notice of this policy. *[Rule 5.13 adopted January 1, 1997; amended effective January 1, 2003.]*

5.14 Representation In Unlawful Detainer Proceedings

A. General Court Policy

It is the policy of this Court that neither a property manager nor a rental agent may file an unlawful detainer complaint on behalf of the owner or a lawful tenant of the subject property, nor prepare the petition or complaint for filing, nor represent the property owner in the proceeding in any way, because any of the aforesaid activities would constitute the unauthorized practice of law.

B. Effect Of Filing By Unauthorized Person

If the clerk of the Court inadvertently files an unlawful detainer complaint in violation of the aforesaid policy, then the clerk thereafter will refuse to enter the default of the defendant or to enter a clerk's judgment, or to file any other papers on behalf of the plaintiff, unless and until a licensed attorney substitutes into the action as attorney of record for the plaintiff.

C. Authorized Parties In Propria Persona

Nothing in this Rule will preclude an individual who is a property owner of record, or an individual who is a bona fide lessee and/or is entitled to possession of the subject premises, from preparing, filing, and prosecuting an unlawful detainer action in his or her own name, without representation by counsel. (**Note:** corporate or other business entities, whether landlord or tenant, may not appear as parties in pro per. [Merco vs. Construction Engineers Inc. (1978) 21 Cal.3d 724.] *[Rule 5.14 adopted effective January 1, 2001; amended effective January 1, 2003.]*

5.15 False Claims Act Proceedings

Proceedings initiated pursuant to the False Claims Act [Government Code §§ 12650 et seq.] must be filed in the Yreka Branch of the Superior Court, and will not be accepted by the clerk for filing unless a completed “Confidential Cover Sheet – False Claims Act”, JC Form MC-060, is affixed to the first page of the complaint (Rule 243.6 of the California Rules of Court). *[Rule 5.15 adopted January 1, 2003.]*

CHAPTER 6: FILING CRIMINAL COMPLAINTS AND CITATIONS; BAIL; ARRAIGNMENT; WARRANTS; AMENDMENTS TO COMPLAINTS; AND INFORMATION

6.01 Filing Criminal Complaints And Citations

A. Place Of Filing: Non-Felonies

All citations and criminal complaints that do not charge a felony offense will be filed at the appropriate branch location of the Court, as designated by the Presiding Judge of the Court. Cases will be assigned for further proceedings by the Presiding Judge, considering the convenience of the Court, parties, and witnesses.

B. Place Of Filing: Felonies

All criminal complaints that charge one or more felony offenses must be filed in the Yreka Branch of the Superior Court.

C. Number Of Copies Of Charging Document

At the time a criminal charging document is filed, the filing agency must submit one copy of the charging document for each defendant named therein.

D. Time Of Filing: In-Custody Defendants

All criminal complaints charging in-custody defendants must be filed with the Clerk of the Criminal Division at the earliest time possible, in no case later than one (1) hour before the time of the defendant's first appearance on those charges.

E. Time Of Filing: Out-Of-Custody Defendants

All criminal complaints charging out-of-custody defendants shall be filed with the clerk of the Criminal Court no later than two (2) days before the time of the defendant's first appearance on those charges. *[Rule 6.01 adopted effective July 1, 1996; amended effective July 1, 2000.]*

6.10 Bail And "O.R." Procedures

A. General Provisions

The following provisions apply to all proceedings in which bail is requested or has been set:

(1) Out-Of-Court Requests For Increase Or Reduction. When bail has been set by a judge outside of court, then any further out-of-court requests for the increase or reduction of bail must be made, if practicable, to the judge who set such bail.

(2) Disclosure Of Prior Requests. Any person requesting a bail reduction or bail increase must disclose all prior such applications which have been made in the pending matter.

(3) Requests For Bail Or Release On Own Recognizance.

(a) No defense applications for bail or release on one's own recognizance ["O.R."] will be considered unless the Office of the District Attorney has been given

adequate notice of the request, so that a representative of the District Attorney has the opportunity be present at the time the request is presented.

- (b) When a defense request for bail or O.R. is made after normal court hours, the requesting party, before contacting the Court, must arrange for the telephone availability of a Deputy District Attorney.

(4) Request To Set Aside Forfeiture.

- (a) Except for vacation of forfeiture ordered pursuant to Penal Code §§ 1305(c)(1) and (2), a notice of request to set aside forfeiture and exonerate bond must be given to the District Attorney and County Counsel at least ten (10) days prior to the hearing on the motion. This notice is a condition precedent to vacation of forfeiture.
- (b) As a condition of an order setting aside forfeiture, the Court may assess a sum, the amount of which will be specified by the Court in the order. The Clerk of the Court, within 30 days of the assessment, will mail notice to the surety or depositor and will execute a certificate of mailing. The time limit for payment will be not less than 30 days after the date of mailing of the notice. If an assessment is ordered by the Court, the forfeiture will not be set aside until such assessment has been paid. (Penal Code §1305.2.)
- (c) As a condition of granting relief from bail forfeiture, the Court will impose a monetary payment in an amount that compensates the people for the cost of returning a defendant to custody, except for cases where the Court determines that, in the interests of justice, no costs should be imposed. (Penal Code §1306.)

B. Source Of Bail Pursuant To P.C. Section 1275

When a Source of Bail Order pursuant to Penal Code §1275 has been issued, the defendant, in order to show that no portion of the consideration, pledge, security, deposit, or indemnification which is paid, given, made, or promised for its execution was feloniously obtained, must utilize the following procedures to calendar the matter for hearing:

(1) Declaration Or Offer Of Proof.

The request for hearing must be accompanied by a declaration or offer of proof setting forth the following:

- (a) The identity of the bail agent and surety, or, if there is no surety, the depositor;
- (b) The source of the bond premium, including name and address of any person proposing to pay said premium; and
- (c) The source of the security or pledge, including the name and address of the owner, and description of the property.

(2) Filing And Service Of Declaration. The declaration or offer of proof must be filed with the Clerk and must be personally served on the Office of the District Attorney not later than twenty-four (24) hours before the hearing.

- (3) Hearing. At the hearing, the defendant must produce the bail agent, the person proposing to pay the premium, and the person proposing to provide the security, for examination and cross-examination. *[Rule 6.10 adopted effective July 1, 1996; amended effective July 1, 2000.]*

6.20 Arrest Warrants And Search Warrants

A. Issuance Procedures

All requests for arrest warrants and search warrants must first be presented to the District Attorney or Attorney General, as appropriate, for review and approval before delivery to the Court. Approval by the District Attorney or Attorney General must be in writing. All supporting declarations for arrest warrants must be fully dated and executed before submission to a judge.

B. Return Procedures

Search warrant returns are to be presented to the Clerk of the Criminal Court, who is authorized to receive and execute the return for the Court. (Penal Code §1534(c).) *[Rule 6.20 adopted effective July 1, 1996; amended effective July 1, 2000.]*

6.30 Arraignment

A. Reserved

B. Reserved

C. Appearance of Public Defender at Arraignment

The Office of the Public Defender will be notified of all pending in-custody arraignments, and a Deputy Public Defender must be present for all in-custody arraignment calendars, whenever a Deputy is available, to undertake representation of defendants for whom the Public Defender may be appointed as counsel.

D. Conflict Of Counsel

As soon as possible, and in any event no later than seven (7) calendar days after the Public Defender or a conflict Public Defender has been appointed to represent a defendant, (whether in or out of custody) with respect to whom the Public Defender or conflict Counsel has a conflict of interest requiring his or her withdrawal as counsel of record, the Public Defender or conflict Counsel must contact the clerk of the Criminal Court for re-calendar on the next available court date, so that the conflict may be declared and substituted counsel appointed.

E. Continuance To Obtain Counsel

In cases in which a defendant appears at arraignment without counsel and advises the Court that he or she is in the process of hiring or attempting to hire private counsel, the case may be continued for appearance of counsel and initial plea; the continuance will not extend beyond fourteen (14) calendar days from the date of first appearance, absent a showing of good cause for a later appearance.

F. Further Calendaring In Misdemeanor Matters

As a general case-handling guideline, the Court will schedule misdemeanor cases not resolved at arraignment for a settlement/pretrial conference to be conducted approximately two (2) weeks after the arraignment.

G. Further Calendaring In Felony Matters

As a general case-handling guideline, the Court will schedule felony cases not resolved at arraignment for a pretrial or settlement conference to be conducted approximately two (2) weeks after the arraignment (unless time is not waived), and for a felony plea/disposition conference on a prior day. The defendant must be personally present at the felony plea/disposition conference, unless excused by the Court, in advance, on good cause shown. If no pretrial or settlement conference is set, a preliminary examination will be set within two (2) weeks after the arraignment, unless the Court requires a later setting. *[Rule 6.30 adopted effective July 1, 1996; amended effective July 1, 2000.]*

6.40 Amendments To Complaints And Informations

A. Filing And Hearing Requirements

If the defendant has already entered a plea, leave of court is required for filing of an amended Complaint or Information. (Penal Code §1009.) If a party wishes to file an amended pleading, and leave of court is required but has not yet been obtained, the amended pleading may be lodged with the Court. The Clerk will mark it "received", and at the next calendared hearing the Court will determine if there is objection to the amended pleading, and will permit counsel, or a party appearing in propria persona, to present argument in support or opposition. If the matter is not already on calendar, for some purpose, within a reasonable time after the amended pleading is lodged, then the party requesting leave to file the amended pleading must place the matter on calendar by filing a noticed motion in accordance with Local Rule 13.03.

B. Service Requirements

At the time the amended pleading is lodged with the Court, the party lodging the pleading must immediately serve a copy on all other counsel, or parties appearing in propria persona. *[Rule 6.40 adopted effective July 1, 1997; amended effective July 1, 2000.]*

CHAPTER 7: MISDEMEANOR SETTLEMENT AND PRETRIAL PROCEEDINGS

7.01 Negotiations Prior To The Settlement Conference

A. Meet And Confer

Counsel are strongly encouraged to meet and discuss actions informally in order to resolve matters prior to the settlement conference.

B. Prosecution Offers For Resolution

The prosecuting agency should deliver any formal offer for resolution to defense counsel prior to the day of the settlement conference.

C. Defense Preparation

Defense counsel should appear at the settlement conference having already discussed the case, and the prosecuting agency's offer, with the defendant. *[Rule 7.01 adopted effective July 1, 1996; amended July 1, 2000.]*

7.02 The Settlement Conference

A. Presence Of Defendant

Defense counsel are strongly encouraged to have the defendant(s) present at the settlement conference unless the Court has given prior approval for non-appearance.

B. Preparation And Continuances

At the settlement conference, both sides must be fully prepared to discuss the facts of the case and the availability of witnesses for trial. The settlement conference will not be continued without actual good cause shown. It is the policy of the Court to conduct only one settlement conference for each case.

C. Dispositions And Trial Dates

The Court will be prepared at the settlement conference to accept dispositions and to set trial dates. *[Rule 7.02 adopted effective July 1, 1996; amended effective July 1, 2000.]*

7.03 Pretrial Motions

A. Controlling Procedures

All procedures for pretrial motions that are imposed by California statutes and Rules of Court are controlling in this Court. The Court incorporates herein, by this reference, the requirements of Rule 4.111 of the California Rules of Court pertaining to the making and timing of pretrial motions and oppositions thereto.

B. Effect Of Failure To File Moving Papers

If the moving papers are not timely filed for the assigned hearing date, the motion may be deemed to have been waived by the moving party unless good cause is shown for the failure to file as required.

C. Motions To Suppress Evidence (Penal Code §1538.5)

In all pre-trial motions made pursuant to Penal Code §1538.5, the procedural guidelines contained therein must be followed. All such motions to suppress must be in writing, and must be scheduled on a regular motion date prior to trial. The notice of motion and motion shall specifically describe and list the evidence that is the subject of the motion to suppress; and shall state the theory or theories which will be relied upon, and state generally the legal authorities supporting the theory or theories upon which suppression of the evidence is sought.

D. Motions For Continuance

Motions to continue any hearing, including trial, are disfavored and will be denied unless the moving party, pursuant to and in accordance with Penal Code §1050, presents affirmative proof that the ends of justice require a continuance. A stipulation by all parties to continue a hearing does not, by itself, constitute good cause. Substitution of counsel does not automatically constitute good cause for a continuance. *[Rule 7.03 adopted effective July 1, 1996; amended effective July 1, 2002.]*

7.04 Trial Settings

A. When Trial Date Set

The trial date will be set at the settlement conference. Generally, the Court will select a trial date that is approximately thirty to sixty (30-60) days after the settlement conference.

B. Estimates Of Length Of Jury Trial

At the settlement conference, or as soon thereafter as becomes apparent, counsel must indicate to the Court if the matter will take more than two full days to try before a jury. The Court will assume that cases not so designated will take two days or less to try. *[Rule 7.04 adopted effective July 1, 1996; amended effective July 1, 2000.]*

7.05 Readiness/Trial Management Conferences

A. General Requirements

The obligations of the parties and counsel in relation to readiness/trial management conferences are as set forth in Rule 4.112 of the California Rules of Court, incorporated herein by this reference. All counsel must attend the readiness/trial management conference, and counsel must be prepared at that time to indicate to the Court whether they are ready to proceed to jury trial.

B. Appearance Of Defendant

Defense counsel must ensure that the defendant is present at the readiness/trial management conference, unless the defendant has executed a waiver of appearance pursuant to Penal Code §977(b)(1).

C. Dispositions

The Court will be prepared, at the readiness/trial management conference, to accept dispositions.

D. Acceptance Of Plea After Conference

Without a showing of good cause, the Court will not accept any plea by the defendant after the readiness/trial management conference other than a guilty or no contest plea and admissions to all allegations in the complaint or information. *[Rule 7.05 adopted effective July 1, 1996; amended effective July 1, 2002.]*

7.06 Court Reporters And Recording System

A. Court Reporters In Misdemeanor Matters

Except in felony cases, court reporters are not available at the expense of the Court. In lieu thereof, a tape recording system is available. Court reporters may be used in non-felony proceedings, but they must be obtained by, and at the expense of, one or more of the parties.

B. Appeals In Misdemeanor Proceedings

The Court adopts Rule 187.5 of the California Rules of Court, which will apply to every appeal in all misdemeanor cases in which all or part of the proceedings were officially recorded electronically. *[Rule 7.06 adopted effective July 1, 1996; amended effective July 1, 2000.]*

CHAPTER 8: CRIMINAL DISCOVERY RULES

8.01 Discovery

A. Governing Provisions

Discovery is governed by the provisions of Penal Code §§ 1054, et seq., and by all applicable constitutional, statutory, and decisional law.

B. Obligation To Make Discovery

The obligation to make discovery available is an automatic, reciprocal, and continuing obligation.

C. Requirements Of Discovery Motion

Unless otherwise ordered, a motion in a criminal case for the discovery of information or evidence must be in writing and, absent an order shortening time, will be subject to the time standards of Rule 4.111 of the California Rules of Court, incorporated herein by this reference. Specific written discovery requests and motions must identify the precise material sought. Any response to a specific request also must be in writing and must state the date, time, and location of availability.

D. Timeliness Of Discovery

All discovery must be timely sought so that the attorneys are adequately prepared to discuss the case at the settlement conference.

E. Failure To Comply With Discovery Requirements

In the event of a failure to comply with this Rule or an order of discovery, the Court may grant a continuance, exclude the evidence not disclosed, dismiss the case, or order any other relief or sanction available at law or under these Rules. *[Rule 8.01 adopted effective July 1, 1996; amended July 1, 2002.]*

CHAPTER 9: CRIMINAL TRIAL RULES

9.01 Challenges

At the time of trial setting, a trial judge will be assigned to the case. Any challenge to that judge pursuant to Code of Civil Procedure §170.6 must be made in the Department in which the matter is pending, within the time frame specified by C.C.P. §170.6. *[Rule 9.01 adopted effective July 1, 1996; amended July 1, 2000.]*

9.02 Motions At Trial

Motions that are out-of-the-ordinary or unusual (e.g. complex or extensive motions in limine) must be made in writing whenever possible, and served upon opposing counsel; they should be filed at or before the pretrial or settlement conference. The trial judge may make further orders regarding the filing, serving and scheduling of such motions, at any time as may be appropriate. *[Rule 9.02 adopted effective July 1, 1996; amended July 1, 2000.]*

9.03 Submission Of Jury Instructions, Verdict Forms, And Voir Dire Questions

It is the policy of the Court in all criminal jury trials to use the instructions contained in CALJIC. Absent an order of the Court on good cause shown, all jury instruction requests covering the law as disclosed by the pleadings, all special findings and verdict forms, and all requested jury voir dire questions, must be in writing and must be delivered by counsel to the trial judge at the pre-voir dire conference; copies must be served on all other parties at, or prior to, the pre-voir dire conference. *[Rule 9.03 adopted effective July 1, 1996; amended effective July 1, 2002.]*

CHAPTER 10: PRELIMINARY EXAMINATIONS

10.01 Time Estimate For Preliminary Examination

Counsel must, at the time of setting or as soon as possible thereafter, identify to the setting judge, the presiding judge, or the presiding judge's designee any matter that realistically can be expected to take a half-day or more to present to the Court. Those matters not so designated will be presumed to require less than a half-day and will be appropriately calendared. *[Rule 10.01 adopted effective July 1, 1996.]*

10.02 Continuance Of Preliminary Examination

A. When Motion To Continue Will Be Heard

Absent good cause shown, a motion to continue the preliminary examination will be heard at the time of the scheduled felony plea/disposition conference.

B. Basis For Continuance Of Preliminary Examination

Motions to continue the preliminary examination are disfavored, and will be denied unless the moving party, pursuant to and in accordance with Penal Code §1050 and the particular statutes pertaining to continuances of preliminary examinations, presents affirmative proof that the ends of justice require the continuance. A stipulation by all parties to continue the preliminary examination, by itself, does not constitute good cause. Likewise, substitution of counsel does not automatically constitute good cause for a continuance.

C. When To File Motion

No motion for continuance of a preliminary examination will be considered unless submitted to the Court in writing not later than 4:00 P.M. of the Friday before the preliminary examination is scheduled. *[Rule 10.02 adopted effective July 1, 1996; amended effective July 1, 2000.]*

10.03 Motions To Suppress

All motions pursuant to Penal Code §1538.5 will be heard in conjunction with and at the time of the preliminary examination, absent an agreement between the parties to hear the motion in advance. All Penal Code §1538.5 motions must comply with Rule 7.03.C, supra. *[Rule 10.03 adopted effective July 1, 1996; amended effective July 1, 2000.]*

CHAPTER 11: TRAFFIC INFRACTION TRIALS

11.01 Reserved

11.02 Time And Place

Traffic infraction trials will be set on special calendars, to be announced by the Court from time-to-time. *[Rule 11.02 adopted effective July 1, 1996; amended July 1, 2000.]*

11.03 Scheduling And Bail

All defendants requesting a court trial on an infraction charge must post bail pursuant to Vehicle Code §40519, after which time a date for trial will be set. The requirement to post bail can be waived only by the Court under unusual circumstances where the interests of justice so require. The posting of bail is necessary to guarantee the appearance of the defendant; the posted amount will be applied toward the payment of any fine or assessment prescribed by the Court in the event of conviction. Bail will include all assessments pursuant to Penal Code §1464.

If the defendant is found not guilty, all bail paid pursuant to this Rule will be refunded. *[Rule 11.03 adopted effective July 1, 1996; amended effective July 1, 2000.]*

11.04 Appearances

A. Witnesses

A party may have witnesses present and may request subpoenas for their appearance; any such request must be made at least five (5) court days in advance of the scheduled trial date.

B. Counsel

If a party wishes to be represented by counsel, that party must notify the Court at least five (5) court days in advance of the scheduled trial date. The Court will notify the District Attorney of the request. *[Rule 11.04 adopted effective July 1, 1996; amended effective July 1, 2000.]*

11.05 Continuances

No continuance of a trial on a traffic infraction will be permitted unless the party who wants the continuance requests same at least five (5) court days in advance of the scheduled date; no continuance will be granted thereafter, unless required in the interests of justice. *[Rule 11.05 adopted effective July 1, 1996; amended effective July 1, 2000.]*

CHAPTER 12: MISCELLANEOUS TRAFFIC INFRACTION RULES

12.01 Traffic School

As a means of resolving traffic infraction charges, the Court will permit attendance at a traffic school that has been approved by the California Department of Motor Vehicles. Rules of eligibility and procedures for completing traffic school will be established by the Court from time-to-time, and will be made available to the general public by the Clerk of the Criminal Court. **Attention is hereby directed to Vehicle Code §§ 41501, 42005, 42007, and 42007.1.** *[Rule 12.01 adopted effective July 1, 1996; amended effective July 1, 2000.]*

12.02 Trials By Declaration

A. Adoption Of Procedure For Trial By Declaration

This court adopts the provisions of Vehicle Code §40902, except as may be limited herein.

B. Eligibility

Upon written request, any defendant will be afforded a trial by declaration, as may be allowed by Vehicle Code §40902. A defendant who requests a trial by declaration will be required to waive time for speedy trial.

C. Requirement For Posting Of Bail

Any person who requests a trial by declaration will be informed by the Clerk of the Court of the requirement to post bail in the full amount specified by the bail schedule. Failure to post bail in a timely manner will be deemed to be a withdrawal of the request for trial by declaration. Thereafter, a person will not be afforded a trial by declaration in that case, absent an order of the Court on good cause shown.

D. Time Limits

A person who has posted bail for a trial by declaration must adhere to the time limits set by the Clerk of the Court for submission of any required declarations, exhibits, or other evidence. Failure to submit said evidence in a timely manner will result in a bail forfeiture without further proceedings.

E. Evidence

Pursuant to Vehicle Code §40902(c), this Court will admit all relevant evidence, including but not limited to the complaint, citation, police reports, written declaration of the defendant or any witness, photographs, drawings, diagrams, or other probative evidence. *[Rule 12.02 adopted effective July 1, 1996; amended effective July 1, 2000.]*

CHAPTER 13: GENERAL CRIMINAL RULES

13.01 Sanctions

A. Incorporation Of Local Rule 5.08

Rule 5.08 of these Local Rules, pertaining to civil actions, is incorporated herein by this reference as though fully set forth at length, and is hereby made applicable to criminal actions in this Court.

B. Incorporation Of RPC Rule 5-300(B)

Rule 5-300(B) of the Rules of Professional Conduct of the State Bar of California, relating to ex parte communications with the Court, is incorporated by reference as though fully set forth at length and is hereby made applicable to criminal actions in this Court. *[Rule 13.01 adopted effective July 1, 1996; amended effective July 1, 2000.]*

13.02 Photographing Or Recording Court Proceedings

The Court adopts Rule 980 of the California Rules of Court, regarding photographing or recording of any court proceeding.

The photographing or recording of any proceeding will be as determined by the judge who is presiding over that proceeding, subject to CRC Rule 980; and any request concerning photographing or recording the proceeding must be made to that judge. *[Rule 13.02 adopted effective July 1, 1996; amended effective July 1, 2000.]*

13.03 Pretrial Motions

A. Form Of Pretrial Motions

Unless otherwise ordered or specifically provided by law, all pretrial motions must be in writing and must be accompanied by a memorandum of points & authorities. All such motions and supporting documents, opposition papers, and the hearings thereon must be in compliance with Rule 4.111 of the California Rules of Court. The form and format of all motions, and supporting or opposition documents, must be as required by the California Rules of Court and, specifically, CRC Rule 201.

Counsel are encouraged to refer to the California Criminal Law Forms Manual, published by the California Continuing Education of the Bar, for guidance in connection with the filing, scheduling, and opposing of pretrial motions.

B. Filing And Service

The time for filing and the manner of service of pretrial motions must be as set forth in Rule 4.111 of the California Rules of Court unless otherwise ordered or specifically provided by law. An order shortening time may be granted by the Court upon ex parte written application, if the application is supported by a declaration demonstrating good cause. Any ex parte application to the Court for an order shortening time must be in compliance with Local Rule 3.03.

C. Hearings

Hearings on pretrial motions must be set on the Court's regular criminal law and motion calendar, provided that the hearing will require no more than a total of 15 minutes for all sides to fully argue; no evidence will be taken at any hearing on the law and motion calendar. In the event that counsel determines that the matter will require more than a total of 15 minutes, or will require the taking of evidence, counsel must notify the Court's calendar coordinator, no later than the third court day prior to the day set for hearing, that the matter requires an extended hearing, in which case the matter may be continued by the Court to a date and time certain.

D. Hearings By Stipulation Of Counsel/Parties

If counsel, or counsel and parties in propria persona, unanimously stipulate that a matter may be placed on calendar and heard by the Court without notice, then counsel or such party may notify the Court's calendar coordinator, in person or by telephone, of the fact of the stipulation, and may request that the matter be calendared for hearing at a designated date and time. Upon receipt of approval by a judge, the calendar coordinator may authorize the matter to be so calendared, and shall telephonically notify the clerk, the court reporter, all counsel and parties in propria persona, and all necessary security personnel (and custodial personnel if the defendant is in custody), of the date and time of the hearing. Unless expressly ordered by the Court, or otherwise provided for in these Rules or some other written policy of the Court, no counsel or party may unilaterally request that a matter be calendared for hearing. Exceptions to this Rule include the Court's existing policy regarding the calendaring of juvenile detention hearings under Welfare & Institutions Code Sections 300 and 600, and calendaring the arraignments of defendants taken into custody for alleged probation violations. *[Rule 13.03 adopted effective July 1, 1996; amended effective July 1, 2002.]*

13.04 Policy Regarding Acceptance Of Negotiated Plea After Final Pretrial Conference

A. Policy

Except in extremely unusual circumstances when good cause is shown, the Court will not approve a negotiated plea after the final pretrial conference has been conducted. For purposes of this policy, the term "negotiated plea" means any plea other than a plea of guilty or nolo contendere to all counts (not including alternative counts) charged in the information, and also means any plea which is conditional upon a grant of probation or a certain specified punishment, even if the defendant is pleading guilty or nolo contendere to all counts. In each criminal case the Court will routinely schedule a pretrial conference on the regular law and motion calendar, to be conducted approximately three (3) weeks prior to the scheduled date for commencement of a jury trial. The term "final pretrial conference" as used herein refers to such conferences.

B. Meet And Confer Requirement

Counsel must have fully investigated their cases, and must have met and conferred with one another, prior to the final pretrial conference. *[Rule 13.04 adopted effective July 1, 1996; amended effective July 1, 2000.]*

13.05 Requests For Sentence Modification**A. Setting For Hearing**

In any case in which the Court has not lost jurisdiction and the defendant or counsel seeks modification of a term of probation, including a jail term, the defendant or counsel must contact the Clerk of the Criminal Court in order to set a hearing before the bench officer who imposed the sentence. The matter will be set on a regular calendar over which that bench officer presides.

B. Form Of Request

The time for filing and the manner of service of pretrial motions must be as set forth in Rule 4.111 of the California Rules of Court unless otherwise ordered or specifically provided by law. An order shortening time may be granted by the Court upon ex parte written application, if the application is supported by a declaration demonstrating good cause. Any ex parte application to the Court for an order shortening time must be in compliance with Local Rule 3.03. *[Rule 13.05 adopted effective July 1, 1996; amended effective July 1, 2002.]*

13.06 Fees For Recall Of Bench Warrants**A. General Policy**

The purpose of the fee charged to recall a bench warrant is to partially reimburse the Court for the actual costs incurred in preparing, issuing, and processing the warrant. The fee may be waived by the Court if waiver is in the interests of justice. Unless waived, the fee must be paid in full prior to the Court's consideration of the request. A defendant who wants to have a bench warrant recalled must post the amount specified in Local Rule 13.06.B, and must agree to appear in court as directed; otherwise, the Court will not consider the request. Payment of the fee does not guarantee that the Court will respond favorably to the defendant's request for recall of the warrant, and the posted fee will not be refunded if the warrant recall request is denied by the Court.

B. Amount Of Fee

A fee of \$25.00 will be charged to any defendant who requests recall of a bench warrant. This \$25.00 fee will be for the first warrant; if the defendant has multiple warrants, \$5.00 will be assessed for each additional warrant. If warrants previously have been recalled, the fee charged for the first warrant will be \$50.00; if there are multiple warrants, \$5.00 will be assessed for each additional warrant. *[Rule 13.06 adopted effective July 1, 1996; amended effective July 1, 2000.]*

13.07 Claims By Court-Appointed Counsel For Payment Of Fees**A. Requirement Of Claim**

A claim for fees and/or reimbursement of expenses by an attorney appointed by the Court to represent an indigent defendant in a criminal action must be submitted in writing to the

Court, or to such agency as may be designated by the Court from time-to-time, or to the Presiding Judge of the trial court if so ordered by said Judge, in the form, and not later than the time, prescribed in this Rule 13.07. Failure to comply with these requirements may be deemed a waiver of the claim for and right to reimbursement. Claims submitted to the Court or designated agency will be reviewed and approved by the Court or that agency, and then forwarded to the County Auditor for payment.

B. Content of Claim

The claim must include an itemized statement of the services rendered, the time devoted to each service, the sum requested for each item of service, the date of service, the items and amounts of reasonably necessary expenses incurred, and the total amount requested by the attorney. Additionally, the claim must be in the format, and must include additional information, as required by a "Written Fee Schedule, Case Categories and Benchmark Standards for Court-Appointed Attorneys" as may be adopted from time-to-time by the presiding judge of the Siskiyou County Superior Court. The Court will review these applications based upon standards which are maintained by the Court and which may be modified from time-to-time as circumstances warrant.

C. Time For Presenting Claim

The attorney's claim must be presented no later than thirty (30) days from the date that he or she last rendered service in the matter. Failure to present a claim within the required time limitation may be deemed to be a waiver of the claim and of the right to reimbursement. *[Rule 13.07 adopted July 1, 1996; amended effective July 1, 2002.]*

CHAPTER 14: FAMILY LAW RULES

14.01 Organization Of Family Law Proceedings

A. Assignment Of Family Law Matters

All Family Law matters are assigned to and heard by a judge of the Siskiyou County Superior Court, or by the commissioner of the Siskiyou County Superior Court pursuant to Local Rule 14.01.C.

B. Calendaring Of Family Law Matters

(1) Matters Assigned To The Family Law Calendar

- (a) All matters arising from the Family Code including cases where the designated child support agency appears on behalf of the County of Siskiyou or any party;
- (b) Matters arising from Probate Code §§1500 et seq. (guardianship proceedings);
- (c) Matters arising from orders to show cause, motions, or trials in actions brought by the or designated child support agency pursuant to the Welfare and Institutions Code or to Family Code §§17000 et seq.;
- (d) Adoption matters, whether heard in camera or in a closed courtroom;
- (e) Post-judgment matters involving omitted or reserved property issues in dissolution actions; and
- (f) Non-marital property right actions that have been consolidated for trial with Family Code or Uniform Parentage Act actions, except for property rights actions in which a jury trial has been demanded.

(2) General Calendaring Policy

Because the Court's goal is to manage its calendar with economy and efficiency, hearing times for the above-mentioned matters will be scheduled as the Court's calendar and business permits. The time and location for hearing on these matters may be changed from time-to-time; when setting matters for hearing, counsel and self-represented parties should inquire of the clerk of the Family Law Department as to when the various calendars are held. Setting of these matters may be done through the office of the clerk or, in the case of orders to show cause, may be submitted to the clerk for presentation to the Court.

C. Commissioner Or Judge Pro Tempore

- (1) In some proceedings assigned to the Family Law Department, parties may be asked to stipulate that their matter be heard and decided by a commissioner of the Superior Court, acting as a temporary judge pursuant to Code of Civil Procedure §259, or by a judge pro tempore of the Court acting as a temporary judge of the Superior Court, appointed pursuant to California Rules of Court, Rule 244.
- (2) If a party does not agree that a matter be heard and decided by a commissioner acting as a temporary judge, the matter will be heard by the commissioner pursuant to CCP §259(f). A judge of the Superior Court will thereafter approve, reject, or change the findings and conclusions of the commissioner.

- (3) The Court has appointed a Family Support Commissioner pursuant to Family Code §4250, who is assigned to act as a temporary judge to hear various matters as allowed by law. All actions or proceedings filed by the designated child support agency, or by any other party in a support action or proceeding in which enforcement services are being provided by the designated child support agency, for an order to establish, modify, or enforce child or spousal support, and including actions to establish paternity, shall be referred for hearing to the Family Support Commissioner unless such Commissioner is not available due to exceptional circumstances, as described by the Judicial Council pursuant to Family Code §4252(b)(7).
- D. Use Of Judicial Council Forms; Proofs Of Service; And Family Code Section 10006
 - (1) All pleadings, including orders to show cause, notices of motion, and responsive declarations, must be pleaded on the appropriate Judicial Council form where mandated, and all documents filed with the Court must comply with the California Rules of Court as to form and format.
 - (2) Except for the initial Petition or Complaint and any Order to Show Cause in a matter governed by these Rules, any document filed with the Court shall be accompanied by a proof of service of that document; and the proof of service shall be in compliance with Code of Civil Procedure §1013(a).
 - (3) These Rules constitute the protocol of this Court, adopted pursuant to Family Code §10006, wherein all litigants shall have ultimate access to a hearing before the Court.
- E. Application Of Sections One Through Five (The “Civil Rules”) To Family Law Matters

Except where otherwise specifically stated, Sections One through Five of these Local Rules apply to all proceedings under this Section Fourteen. *[Rule 14.01 adopted effective July 1, 1996; amended effective July 1, 2004.]*

14.02 Family Law Motions And Orders To Show Cause

- A. Calendars for Family Law Motions And Orders To Show Cause
 - (1) Date And Time. The law & motion calendar for Family Law cases is held weekly, as posted. The dates and times for fixed calendars are subject to change; parties should confirm dates with the Clerk of the Court. The Clerk will set any motion, or enter the date of hearing on an Order to Show Cause, and will insert the requested date on the moving papers along with the appropriate time.
 - (2) Fifteen Minute Time Limit. All hearings on the law and motion calendar in the Family Law Department are limited to fifteen minutes or less. A moving or responding party may request a long-cause hearing pursuant to the provisions of Section Three of these Rules. Where a hearing on the law and motion calendar exceeds fifteen minutes, the Court may rule without further hearing, defer the matter to the end of the calendar, continue the matter to another date, order the matter off calendar, or declare a mistrial.
 - (3) Lengthy Matters. If, after call of the calendar, the moving or responding party contends that the hearing will require more than fifteen minutes, and has made sufficient offer of proof or has filed, at least twenty-four hours before the hearing, a request for live

testimony, then the Court will set the matter on the next available trial or long-cause calendar. If, after call of the calendar and commencement of argument, it appears to the Court that more than fifteen minutes will be required for hearing of a matter, then the Court may set the matter on the next available trial and long-cause calendar.

B. Telephonic Appearance

Reserved.

C. Requests For Ex Parte Orders Pending Hearing

Ex parte motions must be made and conducted as set forth in Section Three of these Rules, and will be calendared in the Family Law Department.

- (1) For ex parte matters made pursuant to the Family Code, the form “Declaration Re Ex Parte Notice” (attached to these Rules as Appendix “9”) must be completed by counsel or self-represented party, and submitted with the ex parte application.
- (2) Orders will be issued ex parte only if the application is accompanied by an affidavit or declaration adequate to support its issuance under Family Code Section 6300 and Code of Civil Procedure Section 527. If the affidavit or declaration does not contain a sufficient factual basis for a requested order, it will not be granted. Counsel will not be permitted to augment affidavits or written declarations by verbal statements.
- (3) Ex parte applications and request for orders will be reviewed by a judicial officer as soon as is practical after submission to court clerk.
- (4) The reviewing judicial officer has discretion to deny a requested hearing on the ex parte application, solely on the basis of the submitted documents.

D. Service Of Moving And Responsive Documents; Effect Of Failure To Serve

- (1) Service Of Documents. Moving and responsive pleadings must be served on the opposing party or attorney, including the designated child support agency if a party has applied for and/or is receiving public assistance, in accordance with Code of Civil Procedure §1005. Orders to Show Cause issued in connection with temporary restraining orders under the Family Code must be served in accordance with Family Code §242.
- (2) Failure To Serve. If a responding party fails to appear at a hearing, the moving party must submit proof of timely service to the Court; otherwise, the matter may be taken off calendar. A moving party may submit, on the appropriate Judicial Council form, an application and order for re-issuance of an order to show cause.

E. Responsive Pleadings To OSC Or Notice Of Motion

- (1) Time Requirements. Unless otherwise ordered or good cause is shown, any responses, declarations, or points and authorities must be served and filed according to the provisions of Code of Civil Procedure §1005(b). Failure to comply with this requirement may result in the refusal by the Court to consider any papers not timely filed; the Court also may continue the matter and/or impose appropriate sanctions.
- (2) Alternative Relief. A responding party may request alternative relief in the responsive pleadings, without filing a separate order to show cause or motion. (Family Code §213.) The Court may consider a request for mutual restraining orders, but only in the case

where the parties requesting the orders have complied with Family Code §6305. A responding party seeking affirmative relief on issues different from those raised by the moving party must file and serve a separate order to show cause or notice of motion.

F. Meet And Confer Requirements; Exchange Of Documents; Stipulations

- (1) Meet & Confer; Exchanging Documents. Prior to any hearing, counsel and the parties must meet and confer in good faith, in an effort to resolve all issues. While conferring, or prior thereto, litigants must exchange all documentary evidence that is to be relied on for proof of any material fact. Failure to meet and confer or to exchange documents in a timely manner may result in the matter being dropped from the calendar or continued, and the Court may order other appropriate sanctions, including monetary sanctions. At the hearing, the attorneys for the parties must advise the Court as to what issues have been settled by agreement and what issues remain contested. (The professional obligation of counsel to meet and confer in an effort to resolve disputes is an obligation owed to clients, the Court, witnesses, children, other litigants and the entire judicial system.)
- (2) Stipulations. All stipulations must be in writing, and all stipulations must be submitted to the Court prior to or at the calendar call on the date set for hearing.

G. Continuances

- (1) The Court looks with disfavor on requests for continuances, unless good cause is shown.
- (2) A continuance of the initial date for any hearing may be granted by the clerk by telephone if a) the moving party represents to the clerk that service has been made and that the parties agree to the continuance to a specified date certain; and b) the request is made by 4:00 PM at least two (2) court days before the scheduled hearing. The requesting party must send a confirming letter, by method reasonably calculated to reach the Court prior to the originally scheduled hearing.
- (3) Failure to notify the court of an agreement for a continuance by 4:00 P.M. at least two (2) court days preceding the hearing may result in the imposition of monetary sanctions. Such monetary sanctions will be in addition to any fees required for the continuance.

H. Hearing Procedures

(1) Calendar Call

- (a) Time Estimate. Parties or counsel must be prepared to state a time estimate on the length of the matter. Hearings on the Family Law short-cause calendar are limited to fifteen (15) minutes, and may be subject to further limitations to accommodate the Court's calendar. Generally, the Court will hear stipulation matters first, and may give calendar preference to volunteer attorneys representing pro bono clients.

If both parties believe in good faith that the matter cannot be completed within fifteen (15) minutes, they must so inform the Court at the time the matter is called. The Court may then set the matter on its long-cause calendar, or make other appropriate orders.

- (b) Non-Appearance By A Moving Party. If the moving party or counsel is not present when the calendar is called, the matter ordinarily will be ordered off calendar unless the responding party has requested affirmative relief. If the

moving party or counsel is going to be unavoidably late, the clerk of the Family Law division must be so notified at the earliest possible opportunity.

- (c) Non-Appearance Of Responding Party; And Requirement And Effect Of Proof Of Service. If a responding party fails to appear at a hearing, the moving party must immediately submit proof of timely service to the Court; if proof of service is not produced but the moving party alleges that timely service has been accomplished, the matter may be taken off calendar or continued to allow submission of proof of service. Where a valid proof of service is provided, the Court will hear the order to show cause or motion as an uncontested matter.
- (2) Attorney's Calendar Requirements. Because contested matters are often continued to another date, attorneys must bring their calendars to each hearing; if an attorney does not have his or her calendar available at the time the continuance is being set, a matter which is continued to a date that conflicts with an attorney's prior commitment will not be continued because of said commitment.
- (3) Copies Of Other Pleadings. When counsel or self-represented party plans to refer to a document that was previously filed with the Court but is now unavailable (because the file containing the document is on microfiche, or otherwise), it is the responsibility of the party relying on the document to obtain copies thereof, to attach the copies to his or her papers, and to make the document available to the Court prior to the hearing on the matter.
- I. Presentation Of Evidence At The Hearing
 - (1) Declarations Received In Evidence. Counsel must be prepared to present their positions based upon pleadings, declarations, and offers of proof. Generally, live testimony by a witness is not permitted. The Court will consider all declarations to have been received in evidence at the hearing, subject to legal objection and cross-examination where appropriate. [*Reifler v. Superior Court*, (1974) 39 Cal. App.3d 479.] Direct examination on factual matters will not be permitted except in unusual circumstances and in the Court's discretion. The Court may decide contested issues solely on the basis of the application, the response, the supporting declarations, and the memoranda of points and authorities submitted by the parties.
 - (2) Offers Of Proof. In lieu of testimony, and solely at the Court's discretion, an offer of proof may be made during any hearing or trial. An offer of proof is a succinct statement given by counsel that declares what a particular witness would say if called to the stand. Offers of proof are subject to the same evidentiary objections as live testimony, and must be distinguished and presented separately from argument.
 - (3) Live Witnesses. A party seeking to introduce oral evidence at a hearing (except for oral evidence in rebuttal to oral evidence presented by the other party) must comply with the requirements of Rule 323 of the California Rules of Court.
 - (4) Sanctions For Misstating An Offer Of Proof. The Court may impose appropriate sanctions for misstating evidence in an offer of proof.

J. Preparation And Service Of Orders After Hearing; Form Of Support Stipulations

- (1) Procedure. Preparation of orders after hearing, and obtaining the approval of opposing counsel, must be accomplished as set forth in Local Rule 3.07.
- (2) Service Of Orders
 - (a) Service On Opposing Party. After an order has been signed by the Court, and filed, the party preparing the order must mail an endorsed filed copy to opposing counsel or self-represented party.
 - (b) Service On The Mediator. If an order involves custody and/or visitation, and the parties have been seen by Family Court Services, an endorsed filed copy of the order must be sent, by the party preparing the order, to the Court Mediator.
 - (c) Service On Child Support Agency. If an order involves custody, visitation, and/or support, and the County of Siskiyou is a party, or a designated child support agency is involved in the collection of support for the benefit of a party to the matter, the party who has prepared the order must send an endorsed copy of the order must be sent to the support agency.
- (3) Stipulations Establishing Or Modifying Child Support Orders. All stipulations establishing or modifying child support must be submitted on the appropriate Judicial Council forms. *[Rule 14.02 adopted effective July 1, 1996; amended effective July 1, 2004.]*

14.03 Family Law Discovery

Parties are encouraged to participate in informal discovery as a means of conserving their financial resources. In appropriate cases, upon the Court's own motion or upon a request from either party, the Court may adopt a discovery plan that is tailored to the issues of the case and to the financial resources of the parties. (**Note:** discovery in Family Law matters is governed, in general, by the Code of Civil Procedure; expert witness disclosures are governed specifically by CCP §3034.) *[Rule 14.03 adopted January 1, 2001.]*

14.04 Rules Applicable To All Financial, Child Support, And Spousal Support Issues

A. In General

Rule 14.04 applies to any Family Law proceeding where a financial matter is at issue. "Financial matter" as used herein includes any request for child support, for spousal or family support, or for attorney's fees and costs. Parties must disclose to each other and to the Court all relevant financial information, in a timely and complete manner, whenever a financial matter is at issue. The Court may impose sanctions, including monetary sanctions, for failure to comply with this Rule.

B. Income And Expense Declaration; Addition Financial Information

- (1) I&E Declarations Must Be Current. Each party must submit a current Income and Expense Declaration ("I&E") whenever a financial matter is an issue. If an I&E has been filed more than sixty (60) days before the date of the hearing, a new declaration must be filed unless the party who would be filing the I&E files and serves instead a declaration under penalty of perjury that the contents of the last filed I&E (identified by filing date)

has not changed materially in any respect. The I&E must state the best estimate of the other party's income, and whether or not child custody or visitation is currently an issue; the Declaration must state the declarant's best estimate of the timeshare each party has with the minor child(ren).

- (2) Declaration Must Be Complete. All applicable blanks on the Income and Expense Declaration must be completed. Notations such as "Unknown," "Estimate," "Not Applicable," and "None" may be used where appropriate. The following items or information must be attached to the Income and Expense Declaration:
- (a) W-2's or 1099 forms if the income tax return is unavailable;
 - (b) Last three (3) pay stubs.
 - (c) If the submitting party is self-employed, a profit and loss statement for the preceding twelve (12) months, or other appropriate time period that is at least as detailed as the IRS form Schedule "C". In addition, and notwithstanding subsection B.(1) of this Rule, if more than sixty (60) days have elapsed since the filing of the Income and Expense Declaration, self-employed individuals must prepare a supplemental profit and loss statement, at least as detailed as the IRS form Schedule C, for the period of time from the ending date of the profit and loss statement attached to the I&E through the time of the hearing. Any supplemental profit and loss statement must be delivered to the other party no later than five (5) court days preceding the hearing date.
 - (d) If child support is sought for a child who is sixteen (16) years of age or older, the moving party must state the child's school grade level as of the application.
 - (e) Upon request, the parties must also exchange income tax returns for the prior two (2) years, including all attachments.
- (3) Requirement Of An Additional Factual Declaration When A Party Is Unemployed. If a party is unemployed, that party must submit a declaration describing his or her previous employment, gross/net income earned when employed, and reasons for termination; it also must describe the party's current efforts to obtain employment.

C. Reserved

[Rule 14.04.C adopted effective July 1, 1996; deleted effective July 1, 2004.]

D. Filing Tax Returns With The Court

Any tax return to be filed with the Court, whether it is the tax return of the person filing it or the tax return of any other person, must be attached to a separate declaration that identifies the tax return(s) being submitted and that is conspicuously marked "CONFIDENTIAL TAX RETURN". Any document so identified will be kept in a confidential section of the file, to be viewed only by the parties, their attorneys, and the Court. Tax returns must not be attached to any other pleadings, forms, or documents submitted to the Court. If the Court finds that the tax return is not relevant to the issues of the case, the tax return will be returned to the party who submitted it, in accordance with Family Code §3552.

E. Calculation Of Child Support

The Court may utilize any computer program approved by the Judicial Council for calculation of child support. Parties may wish to submit a print-out of their own

calculations to the Court to consider when support issues are to be decided. *[Rule 14.04 adopted effective July 1, 1996; amended effective July 1, 2004.]*

14.05 Procedures And Policies For Resolution Of Custody And Visitation Issues

A. Mediation; Fast-Track And Family Code §3111 Evaluations

- (1) Introduction. The Office of Family Court Services (Court Mediator's Office), in conjunction with the Court, assists in resolving contested issues concerning children. To that end, Family Court Services provides mediation of custody and visitation disputes, and conducts Court-ordered evaluations. The staff of Family Court Services is committed to the principle that parents should retain responsibility for child-rearing and should not abdicate this authority to the Court. Consequently, extraordinary efforts are expended to assist parents in resolving differences and in formulating a parenting plan that is in the best interest of the child(ren). Mediation provides a framework within which parents can make their own decisions regarding the lives of their child(ren). Parties are encouraged to resolve disputes by using all available resources, including mediation in the private sector. If any parenting issues remain unresolved, Court-ordered mediation is required prior to a contested hearing.

When an order to show cause or notice of motion places child custody and/or visitation at issue, the parties will be ordered to attend a Parent Orientation Class and to then participate in Mediation. A subsequent court date will be set for submission of the Mediator's report.

Pending the outcome of mediation, the Court may make necessary interim orders for the safety of the parties as well as for custody and visitation. The Mediator may assist the Court in mediating interim custody and visitation orders.

(2) Procedures Following Mediation

- (a) Agreement Reached. In those cases where mediation results in an agreement, the Mediator will report the terms to the Court, which may adopt the agreement and make it an order; the minute order then must be reduced to a formal order, after the hearing, by counsel or self-represented parties.
- (b) No Agreement, And Physical Custody An Issue. When mediation does not achieve full agreement and physical custody continues to be an issue, the Mediator may recommend that a Family Code §3111 custody evaluation or a "Fast-Track" evaluation be performed.
- (c) No Agreement, And Physical Custody Not An Issue. If the physical custody plan is not a contested issue, the Mediator may make recommendations without an evaluation, if ordered to do so by the Court. The Court may adopt these recommendations and issue them as its order. In such cases, the parties will be given adequate time to provide declarations, directly to the Mediator, concerning the disputed issues. Those declarations will be read and considered by the Mediator, and will be attached to the Mediator's recommendation for consideration by the Court.

(3) Physical Custody Evaluations: Family Code Section 3111 And Fast-Track Procedures

- (a) In General. The Court may order a Fast-Track evaluation or a Family Code §3111 evaluation whenever the parties are unable to agree upon a physical custody plan for their child(ren). An evaluation is an assessment of the child(ren), their needs, and the ability of each parent to meet those needs. An evaluator will gather relevant information and prepare a report for the Court that recommends a physical custody plan. Pending the results of the evaluation, the Court will make temporary custody and/or visitation orders.
- (b) Fast-Track Evaluation. A Fast-Track evaluation is intended to evaluate custody and visitation more expediently than a Family Code §3111 evaluation. The fees are considerably less for a Fast-Track evaluation than for a §3111 evaluation. The Fast-Track evaluation involves separate in-office interviews by the Mediator with the parents; an opportunity for the parents to submit written documents to the Mediator; and the Mediator's personal or telephone contact with whomever the Mediator deems appropriate. Whenever possible, a Fast-Track evaluation should include interviews of both parents, unless a parent has refused to participate or is not available. A Fast-Track evaluation may also involve interviews with the child(ren) if the Mediator deems such interviews to be appropriate.
- (c) Section 3111 Evaluation. A Family Code §3111 evaluation involves separate in-office interviews by the Mediator with the parents; an opportunity for the parents to submit written documents to the Mediator; and the Mediator's personal or telephone contact with whomever the Mediator deems appropriate. Whenever possible, a §3111 evaluation will include interviews of both parents, unless a parent has refused to participate or is not available. A §3111 evaluation may also involve interviews with the child(ren) if the Mediator deems such interviews to be appropriate. In addition, the Mediator will perform a home-study of each parent's residence. There may be follow-up interviews with the parents and/or child(ren) as more information is gathered. All specific allegations will be addressed individually in the written report. Generally, much more time is available to the Mediator in a §3111 evaluation (as opposed to a Fast-Track evaluation) for gathering detailed information about the parties, the child(ren), and their respective circumstances.
- (d) Cost Of Evaluation. Responsibility for payment of the costs associated with evaluations must be determined, and all fees paid, prior to commencement of the evaluation. The Court will order payment according to the Court's assessment of ability to pay. Generally, fees are not waived for these evaluations. The evaluation does not begin until the fees are paid in whole. The Director of Family Court Services will assign a staff member to perform the evaluation. In most cases, the initial Mediator will not serve as the evaluator in §3111 evaluations unless the parties and counsel so stipulate.
- (e) Evaluator's Report. At the conclusion of an evaluation, the evaluator will submit a written report and recommendation to the Court, along with all declarations that have been provided. Family Court Services will distribute copies of §3111 reports to the Court, to counsel, and to self-represented parties. The reports will not be distributed to the minor child(ren). The original report will be maintained in the

Court's file under seal, accessible only to the attorneys for the parties in the proceeding, or to self-represented parties themselves.

- (f) Contested Hearing. Should the parties, with the assistance of counsel if represented, be unable to settle the dispute on the basis of the Fast-Track or §3111 report, then a hearing date for trial on contested custody and/or visitation issues may be set at the discretion of the Court.
- (4) Custody And/Or Visitation Issues Filed Under The Domestic Violence Act
- (a) Separate Mediation Sessions. In any proceeding for which mediation is required and there is a history of domestic violence between the parties, or when a protective order as defined in Family Code §6218 is in effect, then at the request of the party who alleges domestic violence (in a written declaration under penalty of perjury) or who is protected by the order, the appointed Mediator will meet with the parties individually, and at separate times.
 - (b) Conducting The Mediation. If the parties agree to meet jointly rather than individually with the Mediator, then during the mediation a support person may accompany any party who is protected by a restraining order. However, the Mediator may exclude a support person from a session if that person disrupts the process of mediation.
- (5) Parent Orientation Class; Extended Mediation; Review
- (a) Parent Orientation Class. The Court will order the parties to participate, before the parties enter mediation, in a Parent Orientation Class offered by Family Court Services.
 - (b) Subsequent Mediation. If the parties desire subsequent sessions with the Mediator and the Mediator agrees, the parties may be seen again. Generally, an agreement is reached in one or two sessions of approximately two hours each.
 - (c) Review. If the parties and the Mediator agree, a case may be set for review, usually within six (6) months, to determine if additional mediation will be needed. Should the parties continue to have a dispute, the mediator will report this to the Court on the calendared review date. The Court may then order the parties back to mediation, order a recommendation from the mediator at a later date, or order a Fast-Track or a §3111 evaluation.
- (6) Participation Of Attorneys In The Mediation Procedure; Non-Resident Participants
- (a) Meet And Confer Requirement. Prior to setting an appointment for mediation, counsel should "meet and confer", by telephone if not in person, in an effort to resolve child custody and visitation disputes. Even if unable to resolve the differences, counsel should discuss and agree upon the issues to be discussed in mediation.
 - (b) Participation Of Counsel In Mediation. Attorneys do not attend the mediation sessions; however, upon request, they must make themselves available to their clients and to the Mediator, in person or by telephone, during the session.
 - (c) Client Preparation. Attorneys are advised to prepare clients to participate in mediation in an open, responsive, and receptive manner. Clients should be advised that the focus of mediation is on the present and future, and they should come to mediation with proposals regarding residence, time-share, education,

child care, transportation, holidays, vacations, special needs of the child(ren) and decision-making responsibilities.

- (d) Nonresident Participants. If one of the parties to the mediation is not a resident of Siskiyou County or is not available for any other reason (which may include incarceration), the party may request a telephonic session with the Mediator. The party may also request, by contacting the office of Family Court Services, consideration of a waiver of his/her attendance at a Parent Orientation Class. If the Mediator agrees, the personal presence of the requesting party at mediation or the class may be excused; however, the mediation will be scheduled and will go forward as in all other matters. Generally, mediation will be conducted only during business hours, and a non-resident party must be prepared to make him- or herself available during business hours for any telephone mediation requested by the Mediator.

(7) Required Disclosures; Testimony By A Mediator

- (a) The Mediator may make suggestions and discuss options with parents and counsel, and may report or recommend to the Court. If it is alleged that a child is "at risk" by virtue of abuse or neglect, the Mediator is required by law to report that allegation to Adult and Children's Services. A Mediator must also disclose the existence of threats of death or bodily harm (Tarasoff vs. Board of Regents, 17 Cal.3d 425).
- (b) The Mediator may be cross-examined; and the Mediator may make recommendations to the Court during testimony.

(8) Involvement Of Children In The Process

- (a) It is the general position of this Court that attorneys representing the parents should not interview the child(ren) involved in the proceeding, and should not interview or elicit information from a child's therapist, except upon the Court's order.
- (b) Absent extraordinary circumstances, a judge of this Court will not interview any child who is the subject of a custody or visitation dispute.
- (c) Children must not be brought to parent orientation or mediation sessions. If parents or counsel wish a child to be seen, their reasons should be discussed with the Mediator. In mediation proceedings, the Mediator is entitled to interview a subject child where the Mediator considers the interview appropriate or necessary pursuant to Family Code Section 3180.
- (d) When the Mediator conducts an interview with a subject child during a §3111 or Fast-Track evaluation, the Mediator will explain to the child that there is no confidentiality of the proceedings as between the parties, their attorneys, the minor child, the Mediator and the Court, but that the report of the Mediator will be maintained under seal in the Court's file.
- (e) The Mediator's interview of a child may be conducted either privately or in the presence of a parent, at the Mediator's discretion. Siblings may be interviewed together or separately, also at the Mediator's discretion.

(9) Court-Appointed Counsel For The Child. Family Code §3150 provides that counsel may be appointed to represent the child in custody/visitation cases, and will have all rights

provided by this section if the Court finds that to be in the child's best interest. Section 3114 provides that the Mediator may recommend to the Court that counsel be appointed to represent a minor child. In making this recommendation, the Mediator will inform the Court why it would be in the best interest of the child. When the Court appoints counsel for the minor, counsel may expect to receive a reasonable sum for compensation and expenses; on the motion of any party, or the Court, the Court will determine both parties' ability to pay for such counsel.

- (10) Disputed Paternity. If paternity is disputed, the issue need not be resolved by the Court prior to mediation. Mediation will not be denied to the parties on the basis that paternity is an issue in the proceeding before the Court (Family Code §3172). The Court may make a pendente lite order granting visitation to a non-custodial parent absent the tests authorized by Evidence Code §621, upon finding that a grant of such visitation rights would be in the best interests of the child.
- (11) Non-English-Speaking Parents. The Office of Family Court Services does not provide interpreters. A non-English-speaking parent must be accompanied by a neutral individual who is fluent in both English and the party's native language, or the mediation will not go forward. The Mediator and both of the parties must agree to any proposed interpreter.
- (12) Disclosure Of Juvenile Court Proceedings. Neither counsel nor parties may bring an action for custody or visitation in the Family Law Department without disclosing to the Court the status of any prior or pending Juvenile Court proceedings. (**Comment:** prior consideration by a Family Law Court of the custody of a minor cannot deprive the Juvenile Court of jurisdiction to make orders to protect the minor [In Re Benjamin D. (1991) 227 Cal.App.3d 1464]).
- (13) Investigation By Adult And Children's Services. When an investigation by Adult and Children's Services (or the equivalent agency in another jurisdiction) is pending, this fact must be made known to the Court. No permanent custody order will be made until the agency's investigation is completed and the findings are made known to the Court. If a family was previously involved with Adult and Children's Services (or an equivalent agency in another jurisdiction), the disposition of that investigation or the nature of the agency's involvement must be disclosed to the Court if that information is available.
- (14) Medical, Psychological, Or Educational Reports. Medical, psychological, educational or other types of reports concerning a child must not be attached to motions, but must be provided to the Court or Mediator as may be ordered. Information not provided to the Mediator that is intended by a party to be filed with the Court must be served on the other party or parties in accordance with applicable provisions of law and the Local Rules, but in no event fewer than (5) five days before a scheduled hearing. (**Exception:** said reports must be provided directly to the Mediator when so ordered by the Court.)

B. Specific Procedures

- (1) Ex Parte Applications. No party who is participating in mediation or an evaluation, or who anticipates the probability of doing so, may submit an ex parte application to the Court regarding custody and/or visitation without first notifying Family Court Services.
- (2) Substitution Of Attorney/Change Of Address. When a case is in mediation or evaluation, counsel must send a copy of any filed substitution in or out of the case to Family Court

Services; counsel must also advise Family Court Services of any relevant changes of address or telephone number.

- (3) Settlement Or Dismissal Of The Action. If a case that is in mediation or evaluation is settled or dismissed, counsel or an self-represented party must provide a copy of the filed stipulation, order, or dismissal disposing of the case, to the Office of Family Court Services.
- (4) Mediator's Questionnaire; And Format Of Documents. The Court Mediator may require parties who are participating in a Family Code §3111 or Fast-Track evaluation to complete a questionnaire. Additionally, parties may submit declarations (documents) to the Court Mediator. Questionnaires and declarations cannot be bound and must not have tabs extending beyond the normal size of the document. Documents must be 8-1/2 by 11 inches in size. Odd-sized documents must be mounted on an 8-1/2 x 11 inch page. Documents must be one-sided only. All photographs submitted to the Mediator must be photocopied on 8-1/2 x 11 inch white paper with the following information typed or written below each photograph: the date and location at which the photograph was taken, by whom it was taken, and a short summary of what the photograph depicts.
- (5) Grievance Policy And Peremptory Challenge Policy
 - (a) The procedure outlined herein is intended to respond to general problems relating to mediation and to requests for a change of Mediator pursuant to Family Code §3163.
 - (b) Anyone with a complaint about his or her experience with a Mediator or other staff-member at Family Court Services is encouraged to first raise that concern with the individual involved and to seek direct resolution of the problem. Requests for a change of Mediator or complaints regarding Family Court Services may be made to the Director of Family Court Services, the Court, both counsel, and self-represented parties. If a party wishes to file a formal complaint, a client complaint form can be obtained, upon request, from the Director of Family Court Services. The completed complaint form must be submitted to the Director of Family Court Services. The Director will review and investigate the complaint and determine whether the complaint is meritorious, in which case the Director will take such action as the Director determines appropriate. The Director will determine whether a complaint involves a matter that Family Court Services can address or is a legal matter that only the Court can address. The Director will contact the party who filed the complaint to discuss any further steps to be taken. Should the complaint concern the Director of Family Court Services, the completed client complaint form will be referred for evaluation directly to the judge assigned to the Family Law Department. The judge will determine whether the complaint has merit, and will take whatever action he or she may deem appropriate.
 - (c) No peremptory challenges of the Mediator will be permitted.
- (6) Inquiries Concerning Mediation And Evaluations; Availability Of Local Court Rules. When the Mediator receives an inquiry regarding the policies and procedures relating to mediation or evaluations, the Mediator will inform the inquiring individual of the policies and procedures provided by these Local Rules of Court. The Mediator will maintain a

copy of these Rules for public reference, pursuant to Rules 1257 (a) and (b) of the California Rules of Court. Copies of these Rules may be purchased through the Office of Family Court Services or from the Family Law clerk. *[Rule 14.05 adopted effective July 1, 1996; amended effective July 1, 2004.]*

14.06 Contested Trials

A. Requirement: Resolution Of Custody And Visitation Issues Before Trial Of Other Issues

Orders resolving custody and visitation issues in any pending action must be obtained before any remaining issues will be set for trial, except where the Court, for good cause shown, excuses compliance with this requirement. The procedure for resolving custody and visitation issues is as follows:

- (1) Parties with a custody and/or visitation dispute must first attempt to mediate the dispute through the Office of Family Court Services. At any settlement or other pre-trial conference held pursuant to the filing of an at-issue memorandum, the Court may order participation in mediation pursuant to these Rules, and in such case the Court will calendar the matter for a further conference on a date after the anticipated return of the Mediator's report on the outcome of the ordered mediation. Ordinarily, the matter will not be set for trial prior to the Court's receipt of the Mediator's report.
- (2) If mediation fails in whole or in part to resolve the parties' dispute, the Court may make a temporary order concerning custody and visitation, and may order an evaluation or recommendation by the Mediator pursuant to Local Rule 14.05.A.
- (3) When the Court orders an evaluation, the evaluator will issue a written report, after which, if necessary, a trial of the disputed custody and visitation issues will be conducted. Except for good cause shown, no trial date will be calendared until the evaluation has been completed and the report filed.
- (4) Where mediation has failed and the Court has not ordered an evaluation, counsel for the parties must meet and confer, and must attempt to stipulate to a Judgment or Order resolving all contested custody and visitation disputes. If the Mediator reports that the parties have failed to resolve outstanding custody and visitation disputes, a party may bring a motion to set these issues for trial. The contested custody and visitation issues must be tried prior to the filing of an at-issue memorandum setting other issues for trial. The Court will excuse compliance with this requirement only upon noticed motion and for good cause shown.

B. Custody Agreements

If the parties agree on terms for custody and visitation of a minor child or children, they must file, not less than three (3) court days before the hearing or trial, a written agreement setting forth in detail their plans for implementation of the agreement after its terms have been ordered.

C. Family Law Case Management

- (1) Purpose Of Rule. The Court has implemented case management procedures in order to promote the prompt disposition of family law actions, and to reduce the stress and cost of

family law litigation by offering status reviews, early resolution of issues, and opportunities to settle.

- (2) Case Party Information. Parties must complete a “Case Party Information” form (attached to these Rules as Appendix “10”) when filing a Family Law petition or response, prepared in a manner that will assist the Court with case management and coordination. The Case Party Information form will not be retained in the file after the clerk inputs the information in the Court’s case management program.
- (3) Case Management Calendar. Every Family Law proceeding initiated after July 1, 2004 will be included in the Family Law Case Management calendar, and will be subject to Court supervision until entry of judgment or dismissal.
- (4) Status Reviews. The filing of a Family Law petition, commencing January 1, 2004, will result in a status review for that action. Status reviews will be conducted by a Family Law judicial officer and assigned Family Law court staff, approximately 90 days after petition is filed. The status review is not a calendared event.
- (5) Case Management Conferences. The Court will issue a notice for a calendared case management conference in appropriate cases. If noticed for a case management conference, counsel or self-represented parties must serve on the other party, and file with the Court, a Case Management Statement (form attached to these Rules as Appendix “13”) no less than five (5) days prior to the case management conference.
- (6) Case Management Statements. The Case Management Statement must include a brief statement of the nature of the case, the contested issues, what efforts have been made to meet and confer to resolve disputed issues, and whether an early settlement conference would assist parties to resolve issues. If children are involved, the report must state the current status of any requests for custody, visitation and support.
- (7) Further Case Management Conferences. At the case management conference, the Court may set further case management conferences and may consider other case management options pursuant to Family Code §2451.

D. Voluntary Settlement Conferences

- (1) In General
 - (a) In order to promote the early resolution of Family Law actions and to reduce the cost of Family Law litigation, the Family Law Department of the Superior Court hereby adopts a procedure for voluntary settlement conferences.
 - (b) Participation in this procedure will be initiated only after the parties have attempted to settle the issues themselves, and only when they are prepared to fully discuss the issues with the Court in a good faith effort to settle the contested issues.
 - (c) This procedure will not be used in lieu of discovery, settlement discussions between the parties, or preparation for a formal settlement conference or trial.
- (2) Joint Request For Voluntary Settlement Conference. Prior to filing their joint request for a voluntary settlement conference, the parties must have met and conferred in a good faith effort to settle the contested issues. In order to participate in this procedure, the

parties must file a joint request for voluntary settlement conference, which should include the following:

- (a) A statement that the probability of settling any remaining contested issues would be substantially enhanced-by the assistance of the Court in a voluntary settlement conference;
 - (b) A statement that the action is not calendared for formal settlement conference and trial, or, if the action is calendared for formal settlement conference and trial, the dates and times on which said proceedings are set;
 - (c) A summary of the contested issues and of the respective positions of the parties on these issues; and
 - (d) Upcoming dates when all parties and counsel will be available to participate in the voluntary settlement conference. (**Note:** these matters currently are set for Thursdays or Fridays at 10:00 AM, but the weekday and time may be subject to change).
- (3) Setting Of Settlement Conference. The clerk will calendar the settlement conference for the earliest possible conference date, taking into consideration the parties' stated availability.
- (4) Attendance At Conference. The parties and their attorneys must attend the voluntary settlement conference, unless, prior to the conference, the Court excuses such appearance. If the appearance of a party is excused, counsel for that party must appear with full authority to settle the issues and the case.
- (5) Sanctions. If a party elects to participate in this voluntary procedure and fails to comply with these provisions, the Court may impose appropriate sanctions.

E. Trials; And Mandatory Settlement Conferences

- (1) Purpose Of Rule; Duties Of Counsel. The purpose of this Rule is to ensure that contested Family Law actions are thoroughly prepared and expeditiously tried, and to avoid use of the trial itself as a vehicle for pretrial, deposition, discovery, and settlement procedures. The Court encourages counsel to confer with one another, in good faith, prior to the settlement conference, with the mutual goal of resolving issues whenever feasible and of delineating those issues which remain be resolved by the Court.
- (2) Relief From Rules; Sanctions For Non-Compliance. Relief from the operation of these Rules relating to contested trials may be obtained in appropriate cases, but only on motion and for good cause shown. Either side may move to strike the at-issue memorandum, the trial documents, or the statement of issues, upon the ground that such document was not prepared and filed in good faith but, instead, is being utilized as a means of avoiding the operation of these Rules. Sanctions against the offending side may be ordered as permitted by law. (CRC Rule 227; CCP §575.2.)
- (3) Compliance With Other Rules. Filing of the statements referred to in these Rules will be deemed as compliance with all California Rules of Court, or other Local Rules, that might require filing of a pre-trial statement or settlement conference statement.

(4) At-Issue Memorandum

- (a) No contested case will be set for trial until an at-issue memorandum has been filed. (Local form “At Issue/Counter At Issue” is attached to these Rules as Appendix “14”.) No at-issue memorandum may be filed prior to resolution of any and all custody and/or visitation matters in the case, absent a court order to the contrary. No at-issue memorandum will be accepted for filing, in any action, unless it includes a true and accurate declaration (1) that there are no children who may be subject to the Court’s jurisdiction in the action; (2) that there are no unresolved custody and visitation issues in the case; or (3) that the Court has excused compliance with this provision.
- (b) The at-issue memorandum must be served upon all interested parties pursuant to Code of Civil Procedure §1005(b), and when filed must be accompanied by a proof of service complying with Code of Civil Procedure §1013a, before the Court will set a mandatory settlement conference or trial date. Any party who believes that the case is not ready to be set for trial may file a motion to strike the at-issue memorandum.

(5) Trial Documents

- (a) The party who has filed the at-issue memorandum must serve and file, either with the at-issue memorandum or no more than thirty (30) days prior to the filing thereof, the following documents: 1) a completed current “Income and Expense Declaration” [Judicial Council Form FL-150]; 2) a completed current “Property Declaration” [Judicial Council form FL-160]; and 3) a “Declaration Regarding Service of Final Declaration of Disclosure” [Judicial Council form FL-141].
 - (b) The responding party (party who did not file the at-issue memorandum) must serve and file his or her trial documents, as specified in the previous sub-part, no later than twenty (20) days after service of the at-issue memorandum if served personally, or twenty-five (25) days if served by mail.
 - (c) The Court will set the date and time for trial and the Court Clerk will certify mailing of notice to the parties, or to counsel if represented. With the trial setting, the Court, in its discretion or if requested by either party, will set a mandatory settlement conference two to four weeks prior to the trial date.
- (6) Settlement Conference. Counsel and the parties must personally appear for a mandatory settlement conference. Counsel and the parties must participate in good faith in the settlement conference.
- (7) Statement Of Issues, Contentions, And Proposed Disposition Of The Case. When a matter is set for a contested trial, both parties must file and serve a “Statement of Issues, Contentions, and Proposed Disposition of the Case” (hereinafter referred to as the “statement of issues”) at least twenty (20) days prior to the trial date or at least ten (10) days prior to the settlement conference if one is set. Failure by both sides to do so will result in the matter being dropped from the settlement conference calendar or trial calendar.

Failure by one party to file a statement of issues as required will permit the complying party to vacate the trial or continue the cause, and may result in the imposition of monetary or issue sanctions to the extent permitted by law.

The statement of issues required by this Rule must cover all contested matters to be raised at trial, including, when appropriate, the following information:

- (a) Statistical Facts
 - (i) Date of marriage; date of separation; length of marriage in years and months;
 - (ii) Number and age of minor children;
 - (iii) Age of the parties;
 - (iv) Issues as to statistical facts; and
 - (v) A complete statement setting forth all material facts upon which a party relies on any contested issues regarding statistical facts.
- (b) Child Custody And Visitation
 - (i) Existing custody and visitation order or arrangement; and
 - (ii) Proposal for custody and visitation and all material facts in support of the proposal.
- (c) Child Support
 - (i) Summarize the existing order for child support. If there is no existing order, summarize any existing agreement or arrangement for support;
 - (ii) State proposal for child support, setting forth the gross and net monthly income and total expenses of each party, and the amount of time each party has primary physical responsibility for the children. The proposal must include any requests for security, health insurance, health costs, child-care expenses and the allocation of the dependency exemption. All proposals must be accompanied by a computer-generated calculation.
 - (iii) State all material facts in support of any unusual circumstances regarding income, expense, or ability to earn income.
- (d) Spousal Support
 - (i) Summarize existing order for spousal support. If there is no existing order, summarize any existing agreement or arrangement for support.
 - (ii) State proposal for spousal support setting forth the gross and net monthly income and total expenses for each party, including any request for security. The proposal shall include a proposal regarding the duration of support.
 - (iii) State material facts in support of any unusual circumstances regarding income, expense or ability to earn income.
- (e) Statement Of Contested Property Issues. List each item of property, whether real or personal, community or separate, and for each item of property furnish the following information, if relevant to the contested issues:
 - (i) The date it was acquired;
 - (ii) The manner in which title is vested;
 - (iii) Whether it is community property, separate property, a mixture of the two, or quasi-community property;
 - (iv) All material facts and law in support of the party's characterization of the property;
 - (v) The current fair market value of, the nature, extent and terms of any encumbrance against, and the current net equity in, the subject property;

- (vi) A complete statement setting forth the factual and legal basis for apportionment or reimbursement, the formula for apportionment or reimbursement, and the value of each party's community and separate property interest. The statement must include any issues regarding offsets, credits, and reimbursement for post-separation payments or use of property;
- (vii) Whether a party is requesting that the property be confirmed as separate property.
- (f) Debts Or Obligations
 - (i) All debts or obligations of the parties that are liabilities of the community, and debts or obligations of the parties that are separate liabilities of the respective parties. State the name of the creditor, the balance due on the date of separation, the current balance, and the nature, extent and terms of any security for the debt.
 - (ii) If there is a claim for reimbursement, list the name of the creditor, the total amount paid, the source from which payment was made, and whether the payment was made after the date of separation. This must include any claims for reimbursement for educational costs.
 - (iii) Summarize existing orders for reimbursement.
- (g) Attorney Fees, Expert Fees, And Costs
 - (i) Summarize all existing Orders.
 - (ii) List amounts paid by a party on account of the other party's attorney fees, expert fees and costs and balances due for such fees and costs.
 - (iii) List amounts paid by a party on account of his or her own attorney fees and costs and balances due for such fees and costs.
 - (iv) If a party is requesting attorney fees, set forth the amounts received by the requesting party from the other party and the additional amounts requested. If the request exceeds \$1,000 for attorney fees, it must be supported by a declaration by the attorney for the party setting forth the nature and extent of professional services rendered and the attorney's most recent statement of account to the party.
 - (v) If the request is for costs, it must be supported by a declaration setting forth the nature and amount of the costs incurred.
- (h) Documents, Schedules, Summaries, And Experts' Reports
 - (i) Attach copies of all appraisals, expert reports and/or computer generated support calculations to be offered at time of trial.
 - (ii) The written report of an expert or the computer-generated support calculations will be received in evidence, without foundation, unless, at or before the settlement conference in the matter, the opposing party or counsel demands the expert's presence at trial. Said demand must be in writing. For short cause matters in which no settlement conference is held, the written demand must be made no later than fifteen (15) days prior to the trial date.
 - (iii) Failure to comply with this provision may result in an order precluding the testimony of the expert witness at the time of trial.

- (i) Other Witnesses
 - (i) Set forth the name and address of any other witness whom a party intends to call at the time of trial, and the general substance of the testimony to be given. Rebuttal witnesses must be disclosed as they become known.
 - (ii) Failure to comply with this provision may result in an order precluding the testimony of the witness at the time of trial.
- (j) Points And Authorities; Legal Arguments. A brief summary of the points and authorities or legal arguments on which a party intends to rely must be set forth in the numbered paragraph of the Statement to which they are relevant.
- (k) Income And Expense Declaration. A current Income and Expense Declaration (Mandatory Judicial Council Form FL-150) must be completed, executed by the party, and attached to the Statement. A party may not rely on a previously filed Income and Expense Declaration unless it was filed less than sixty (60) days prior to the filing of the Statement and there have been no changes since the previous filing. If a party is relying on a previously filed Income and Expense Declaration, a copy of that IED and the party's three (3) most recent pay stubs or most recent profit and loss statements must be attached to the Statement. Parties are referred to Rule 14.04 for the Court's requirements on financial issues.
- (l) Proposal for Disposition
 - (i) A complete proposal for the disposition of each item of property (including debts) must be submitted, and if the proposed disposition is not substantially equal, the Statement must include a proposal for equalizing the disposition. A statement that property will be divided equally is not sufficient.
 - (ii) If the proposal for disposition includes a request that the ultimate disposition of an item of property be deferred, state all the facts upon which a party intends to rely in support of the request for deferring immediate disposition.
- (8) Trial Brief. Trial briefs are not required. If utilized, however, a trial brief must be served and filed no later than five (5) court days prior to the trial.
- (9) List Of Exhibits. A list of exhibits (not the exhibits themselves) must be lodged with the Court at time of trial. At least five (5) days prior to trial, the parties must exchange legible copies of any and all exhibits that each party reasonably anticipates will be introduced at trial. Only disclosed exhibits may be offered at trial, except for good cause shown. The parties are encouraged to have their exhibits pre-marked.
- F. Guidelines Applicable To The Evaluation Of The Community's Personal Property
 - (1) Motor Vehicles. If there is a dispute as to the value of a motor vehicle, the value generally will be fixed at the mid-point between the high and low value shown in Kelly's Blue Book, unless the circumstances show that a different valuation should be made. Counsel should attempt to agree on the value of a vehicle in advance of trial. Copies of the appropriate pages of the Blue Book relied upon by counsel must be attached to the trial statement or response thereto, and must include an indication of the year and volume of the relied-upon Blue Book.

- (2) Furniture, Furnishings And Tools. With regard to valuation of normal furniture, furnishings, and tools, the age of the items is much more important than initial purchase price or the replacement cost. The test is the fair market value of the items as of the date of trial. (**Note:** in general, used furniture has a low value on the open market).
- (3) Unusual Items. When there are subject assets of an unusual nature such as oriental rugs, antiques, custom or rare jewelry, works of art, and handcrafted items, then the parties should endeavor to agree upon a qualified appraiser for such items, and to agree and stipulate that the report of the appraiser will be admitted into evidence without the necessity of the appraiser's personal appearance at trial.

G. Alternate Valuation Date (Date Other Than Trial)

A party who seeks a valuation date for community property that is not the date of trial must serve and file, not less than thirty (30) calendar days before the trial date, a notice of motion for alternate valuation date.

H. Continuance Of Trial

Continuances of trial dates are subject to the Local Civil Rules relating to the continuances of civil trials. Any continuance so granted may be subject to rescheduling by the Court of any settlement or other pre-trial conference, and to the requirement of an updated statement of issues and contentions, to be filed and served prior to the new trial date in accordance with these Rules. *[Rule 14.06 adopted effective July 1, 1996; amended effective July 1, 2004.]*

14.07 Judgments By Default; And Uncontested Dissolutions

A. Default Judgments

- (1) In General. To obtain a default judgment of dissolution, of legal separation [Family Code §2336], or for nullity [Family Code §2211], the petitioner must file a request to enter default, accompanied by the original summons and a completed proof of service of the summons (if not previously filed). When the Court's file contains evidence of proper service of the summons, and no responsive pleadings have been filed within the allotted time to respond, the clerk of the Court will enter the respondent's default.
- (2) Special Requirement For Default Judgment Of Nullity. After the default has been entered, petitioner must file a "Declaration in Support of Nullity". The contents of this declaration must set forth the facts that support a finding of fraud, prior existing marriage, unsound mind, force, physical incapacity, Petitioner's incapacity by age at time of marriage, or other grounds for nullity [Family Code §2210.]. Where the contents of the declaration are insufficient to establish grounds, the Court may set, and require the petitioner to attend, a default hearing on the petition for nullity.
- (3) Special Requirements: Default Judgment For Dissolution Or Legal Separation. After default of the respondent has been entered, the petitioner must file a completed form declaration for default that indicates which orders are to be included in the judgment of dissolution or legal separation. A party may not request orders in the judgment beyond the relief requested in the petition, except that if there are minor children, the Court will

have and retain jurisdiction to order child support whether or not it was so requested. [Family Code §4001; CRC Rules 1281 and 1282.]

- (4) Special Requirements: Default Judgments For Child Custody, Visitation, Or Support. When a child custody, visitation, or support order is requested in a default proceeding, the moving party must state on the declaration for default, or on attachments thereto, the following:
- (a) Date of parties' separation;
 - (b) Custodial arrangement since separation;
 - (c) Extent of contact between the child(ren) and the non-custodial parent;
 - (d) If the moving party seeks to deny visitation to the defaulting party, a statement of the reasons;
 - (e) The amount of child support sought, the basis for the amount sought, and, if available, the computer print-out of the guideline support proposed;
 - (f) If the moving party seeks to waive child support, or to reserve that issue, then that party's reasons for such must be set forth.
 - (g) If child support has been ordered in another Superior Court proceeding, then the moving party must disclose that fact to the Court, and must state the case number of the other proceeding, if known.
- (5) Income And Expense Declaration. A fully-completed form income and expense declaration must be submitted where any one of the following orders is requested in a default proceeding: child support or waiver of child support; spousal support (except where a party reserves the Court's jurisdiction to award spousal support in the future); waiver or termination of spousal support in a long-term marriage (ten (10) years or more between the date of marriage and the date of separation); family support; or attorney's fees or costs. The declaration shall include the submitting party's best estimate of the other party's income.
- (6) Property Declaration. If there are assets and/or debts to be disposed of by the Court in a default proceeding, the petitioner must submit a completed property declaration that proposes the division of said assets and/or debts, as well as proof of service of the disclosure declaration. (Family Code §2106.)

B. Form Of The Proposed Default Judgment

The party requesting a default judgment, or the party's attorney, must prepare the formal judgment. All proposed provisions relating to child custody, visitation, child support, attorney's fees and costs, property, and injunctive orders must be set forth in the formal judgment, either by attaching and incorporating a copy of the parties' marital settlement agreement addressing these issues, or by attaching continuation pages containing the orders the party has requested.

- (1) Order Reserving The Court's Jurisdiction To Award Child Support. A reservation of jurisdiction over the issue of child support must be stated in substantially the following language: "The Court reserves jurisdiction to award child support without prejudice to any action brought by the designated Child Support Agency."
- (2) Child Support Orders Where Custodial Parent Is Receiving Temporary Assistance To Needy Families. When a party wishes to obtain a child support order by default and the

custodial parent receives Temporary Assistance to Needy Families (“TANF”), the designated child support agency must be served by mail with notice of the request. All such orders for child support must specify that payments will be made to the designated support agency.

- (3) Spousal Support Orders. The petitioner must address the issue of spousal support for both parties in the proposed judgment. The petitioner may request that spousal support be ordered for either party; that the Court terminate its jurisdiction to award spousal support to either or both parties; or that the Court reserve jurisdiction to award spousal support in the future to either or both parties. All orders for spousal support must state the amount of support, the dates payable, and, unless there is an agreement to the contrary, that support will terminate on the death of either party or on remarriage of the supported party. A marriage of ten (10) or more years is presumptively a long-term marriage. In a long-term marriage, the petitioner may not automatically waive the right to receive spousal support, or terminate the respondent's right, absent a showing of an ability of the party to support him- or herself. The petitioner must complete and file an Income And Expense Declaration listing both parties' incomes. (**Comment:** If spousal support is not requested in the petition, the Court may not have jurisdiction to make orders regarding such support, and the right of the requesting party to seek a spousal support may then be terminated.)
- (4) Property Orders. All real property referred to in the judgment must be identified therein by its complete legal description and common address.
- (5) Attorney's Fee Orders. Any request for an award of attorney's fees in an amount greater than \$1,000.00 must be supported by a factual declaration indicating the amount of time the attorney spent on the case and the attorney's hourly rate. Alternatively, the matter may be set for an uncontested hearing on this issue.
- (6) Restraining Orders. Any and all restraining orders must be stated in the body of the judgment and must include the date of expiration.
- (7) Termination Of Marital Status. The marital status for all dissolutions will terminate no less than six (6) months and one (1) day from the date the Court acquired jurisdiction over the respondent (or the next court day where said date falls on a court holiday or weekend). If a judgment is not presented for the Court's approval until after the six months has lapsed, marital status will terminate on the date that the Court signs the judgment. In this instance, the petitioner may leave the termination date blank on the proposed judgment. (**Note:** proposed judgments for legal separation must not state a termination date.)
- (8) Notice Of Entry Of Judgment. The petitioner must submit, together with the proposed judgment and any forms required above, an original and two copies of the form “Notice of Entry of Judgment”. The petitioner must also submit two (2) first-class postage prepaid envelopes, addressed to the parties as listed on the notice of entry of judgment. *[Rule 14.07 adopted effective July 1, 1996; amended effective July 1, 2004.]*

14.08 Uncontested Judgments Pursuant To Stipulation

A. Approval Or Incorporation Of Property Settlement Agreement

No property settlement agreement will be approved by the Court or incorporated by reference in an uncontested judgment unless all of the following requirements are satisfied:

- (1) Agreement. The petition refers to the property settlement agreement; or the agreement or a separate stipulation signed and filed by the parties and their respective attorneys, if any, provides that the agreement may be presented for Court approval and incorporation; or both parties and their respective attorneys, if any, have endorsed their approval of the agreement on the stipulation for judgment.
- (2) Signatures Of Parties; And Notarization. The agreement has been signed by the parties and the signatures have been acknowledged before a notary public.
- (3) Signature By Counsel; Acknowledgment Of Party If Self-Represented
 - (a) If both parties are represented by counsel, the agreement has been signed by both attorneys;
 - (b) If only one party is represented by counsel, the attorney for that party has signed the agreement and the self-represented party has signed a statement that he or she has been advised to consult an attorney regarding the agreement, but has declined to do so;
 - (c) If neither party is represented by counsel, any party who has not appeared before the Court has acknowledged in the agreement that he or she is aware of the right to consult an attorney.
- (4) Service of Disclosure Declarations. Proofs of service of the disclosure declarations required by Family Code §2105 have been filed.

B. Requirement Of An “Appearance, Stipulation And Waivers”

- (1) An uncontested judgment may be obtained only upon the filing of a form “Appearance, Stipulation and Waivers”, or its equivalent, wherein the parties:
 - (a) agree that the matter may be tried as an uncontested matter;
 - (b) waive their rights to notice of trial, findings of fact, and conclusions of law;
 - (c) agree that the matter may be tried by a commissioner sitting as a temporary judge; and
 - (d) agree that none of the stipulations and waivers will apply unless the Court approves the written settlement agreement or stipulation for judgment.
- (2) The moving party must also file a completed form “Declaration for Default or Uncontested Dissolution”. (Family Code §2336.)

C. Stipulated Nullity Judgments

Stipulated judgments for nullity of marriage may be signed by the Court without a hearing when the stipulation or an accompanying declaration contains facts supporting the grounds for nullity. [Family Code §2210.] Stipulated nullity judgments must be presented to the clerk of the Family Law Department along with the judgment for nullity,

three copies of the notices of entry of judgment, and properly addressed stamped envelopes.

D. Income And Expense Declaration

The Court may require an Income And Expense Declaration where the marriage is of long duration (defined as ten (10) or more years), and the stipulated judgment or marital settlement agreement contains a waiver of spousal support.

E. Proposed Judgment

- (1) Stipulated Orders For Child And/Or Family Support. In addition to any marital settlement agreement or stipulated judgment, the parties must complete and attach to the proposed judgment a form "Stipulation to Establish or Modify Child or Family Support and Order", or its equivalent. If one of the parties has assigned the right to collect support to the designated child support agency, then a representative thereof must sign the stipulation to establish or modify a child or family support order, and the order for child support must specify that payment is to be made to the designated agency.
- (2) Incorporation Of The Marital Settlement Agreement. Where parties intend that the terms of the marital settlement agreement will become the terms of the judgment, the marital settlement agreement must be incorporated into the judgment. Parties are encouraged to state on the face of the judgment the following: "The attached marital settlement agreement is incorporated herein and made a part of this judgment. The parties are hereby ordered to comply with its directory terms."

F. Notice Of Entry Of Judgment

The moving party must submit, together with the proposed judgment and any forms required above, an original and two (2) copies of the form "Notice of Entry of Judgment". Petitioner must also submit two (2) first-class envelopes, postage prepaid, addressed to the parties as listed on the notice of entry of judgment. *[Rule 14.08 adopted July 1, 1996; amended effective July 1, 2004.]*

14.09 General Procedure For Default And Uncontested Cases Pursuant To Family Code Section 2336

A. Submission To The Court

- (1) Normal Procedure. Requests for entry of a default or uncontested judgment of dissolution, legal separation, or nullity will be submitted to the judicial officer after receipt by the clerk of the Family Law Department. Thereafter, the judicial officer will do one of the following:
 - (a) Sign the proposed judgment;
 - (b) Return the documents to the party with a request for correction or additional information; or
 - (c) If the case presents issues on which a record should be made, set the matter for hearing. The moving party will be notified in cases where a hearing is required.

B. Default And Uncontested Status-Only Judgments; Bifurcation By Notice Of Motion

- (1) Pursuant To Stipulation Or Default. A "status-only" judgment (sometimes referred to as a "bifurcated" judgment) may be granted pursuant to stipulation or default. Where the parties stipulate to bifurcation of marital status and entry of judgment thereon, the parties must submit the stipulation and an order for bifurcation.

Where the Court has entered a default pursuant to Family Code §2336, the petitioner may request termination of the marital status by submitting an ex parte application and supporting declaration for bifurcation, along with an order for bifurcation.

The stipulation or application for bifurcation must be accompanied by the proposed judgment, three (3) notices of entry of judgment, and two (2) first-class mail, postage-prepaid envelopes addressed to the parties as listed on the notice of entry of judgment.

- (2) Motion For Bifurcation. If a party wishes to bifurcate a contested proceeding and there is no stipulation for such bifurcation, the moving party must present the request for bifurcation by way of a duly-noticed motion.
- (3) Procedure After Bifurcation. After bifurcation is ordered, the parties must proceed by way of Family Code §2336 in order to obtain judgment. *[Rule 14.09 adopted effective July 1, 1996; amended effective July 1, 2004.]*

14.10 Family Law Facilitator

A. Appointment; Authority For Duties And Conduct

The Court has appointed a Family Law Facilitator pursuant to Family Code §10000, et seq., "The Family Law Facilitator Act". The Facilitator's services are provided by the Court at no cost to the parties. The Facilitator's duties and conduct are governed by the Family Law Facilitator Act.

B. Additional Duties

In addition to the services provided by the Family Law Facilitator pursuant to Family Code §10004, the Court designates the following additional duties prescribed by Family Code §10005, which may be implemented by the Court Facilitator at the direction of the Court Executive Officer, upon the Executive Officer's determination that funding is available, without further notice:

- (1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to §10012 (actions in which one or both of the parties are not represented by counsel will have priority);
- (2) Drafting stipulations to include all issues agreed upon by the parties, which may include issues other than those specified in §10003;
- (3) If the parties are unable to resolve issues with the assistance of the family law facilitator, then prior to or at the hearing, and at the request of the Court, the Facilitator will review the paperwork, examine documents, prepare support schedules, and advise the Court as to whether or not the matter is ready to proceed;
- (4) Assisting the Court Clerk in maintaining records;

- (5) Preparing formal orders consistent with the Court's announced order in cases where both parties are self-represented;
- (6) Serving as a special master in proceedings, and making findings to the Court, unless the Facilitator has previously served as a Mediator in the case.
- (7) Providing the services specified in Division 15 (commencing with Family Code §10100);
- (8) Providing the services specified in Family Code §10004 concerning the issues of child custody and visitation as they relate to calculating child support.

C. Further Additional Duties

If staff and other resources are available, and the duties listed in subdivision 14.10.B have been accomplished, the duties of the Family Law Facilitator may also include the following:

- (1) Assisting the Court with research and any other responsibilities that will enable the Court to be responsive to the litigants' needs.
- (2) Developing programs for the Bar and community outreach through day and evening programs, videotapes, and other innovative means that will assist self-represented and financially disadvantaged litigants in gaining meaningful access to Family Court. These programs may include information concerning under-utilized legislation, such as expedited child support orders (Chapter 5, commencing with §3620, of Part 1 of Division 9), and pre-existing, Court-sponsored programs such as supervised visitation or the appointment of attorneys for children.

D. Duties Beyond The Scope Of Family Code §10000

To the extent that local court budget is provided for the purpose, the Family Law Facilitator may assist parties in matters not specifically designated in Family Code §10000, et seq., including but not limited to: dissolution of marriage, legal separation, nullity, matters arising out of the Domestic Violence Prevention Act, guardianship, stepparent and kinship adoption, name change, emancipation of minors, and civil harassment restraining orders. Additional types of service may be added at the direction of the local court administrator without further notice.

E. Referral By The Court

If the Court determines that it would be of assistance to the parties in a Family Law proceeding, the Court may refer the parties to the Facilitator, and continue any hearing that may be pending. *[Rule 14.10 adopted January 1, 1998; amended effective July 1, 2004.]*

14.11 Adoptions

A. Stepparent Adoptions Pursuant To Family Code §9000; And Proceedings Under Family Code §7800 (Freedom From Parental Custody And Control)

- (1) Necessity Of Consent. If a petition for a stepparent adoption is filed under Family Code §9000 without an order under Family Code §7800 having first been obtained, then a special hearing, entitled a "necessity of consent" hearing, will be conducted before the petition for adoption is considered.

- (2) Notification Of The Court Mediator. The Clerk of the Court will immediately notify the Court Mediator of the filing of the petition, and the Court Mediator will report the circumstances to the Court as provided in Family Code §7850.
- (3) Citation. A citation will be issued upon the filing of the petition, and must be served on the persons and in the manner described in Family Code §7880. The citation must require the persons served to show cause, if any, why the Court should not find that the minor has been abandoned, and why the consent of the named parent to the proposed adoption is unnecessary. A form of citation that is permissible for use in this Court is attached hereto as Appendix 11 of these Rules.
- (4) Hearing Date. The hearing date will be on the regular adoptions calendar, and the date selected must be within forty-five (45) calendar days of the filing of the petition. No adoption under Family Code §9000 will be approved until such hearing has been accomplished.
- (5) Supplemental Local Rule. A proceeding initiated pursuant to this Local Rule is in addition to that required by Family Code §9000.

B. Adoption Where Alleged Natural Father Not Found

If it is claimed that an alleged natural father is unidentifiable or cannot be found for service, the petitioner must file a petition and serve notice of the proceedings pursuant to Family Code §7666 and §7667, and the Clerk of the Court will set a hearing on the regular adoptions calendar, for determination as to whether or not the father is unidentifiable, and as to whether or not the Court may dispense with notice to any alleged natural father. The petitioner must appear and present evidence at the hearing.

C. Release Of Adoption Files

The procedure for release of information that may be contained in this Court's files and that relates to adoptions is as set forth in Appendix 7. Only the forms set forth in Appendix 7 may be used in making requests for release of such information. These forms may not be used to request the release of information held by other courts or agencies.

[Rule 14.11 adopted July 1, 1996; amended effective July 1, 2004.]

14.12 Sanctions

Failure to comply with a Local Rule or California Rule of Court may subject the non-complying party or attorney to sanctions, including monetary sanctions, pursuant to California Rules of Court, Rule 227, Code of Civil Procedure §§ 128.5, 128.7, 177.5 and/or 575.2, and/or Family Code §271. *[Rule 14.12 adopted effective January 1, 2004.]*

CHAPTER 15: PROBATE RULES

15.01 Caption Of Probate Documents

If a probate pleading or other probate document is not filed on a Judicial Council form, the caption must include a reference to the statutory provision under which the matter is filed. If, in the pending proceeding, any part of an estate is to be distributed to a trust, the caption of the pleading must so indicate. *[Rule 15.01 adopted effective July 1, 1996; amended effective July 1, 2004.]*

15.02 Settings And Assignments; Continuances

A. Settings And Assignments

- (1) At the time of its filing, every pleading that requires a hearing will be set on the regular calendar for that type of proceeding. As of the effective date of this amended Rule, the conservatorship calendar is heard on Wednesdays at 9:00 A.M. in Department Four; the probate calendar is heard on Wednesdays at 10:00 A.M. in Department Four; and the guardianship calendar is heard on Thursdays at 3:00 P.M. in Department Nine. Because the day and hour reserved for these calendars may change from time-to-time, counsel are advised to consult the clerk before requesting a specific setting.
- (2) The attorney or self-represented party who files the pleading may select the initial hearing date, as long as the setting permits sufficient time for service of appropriate notice.
- (3) Any request for an earlier setting than would normally be allowed must be presented to the Court pursuant to the Local Rules governing orders shortening time. **Note:** mere convenience or inconvenience of counsel is insufficient justification for such request.

B. Continuances

- (1) On the call of the calendar, any regularly-set matter that is found to be “not ready for hearing” will be continued until a future date, to be determined at the Court’s discretion. A matter is considered to be not ready if the pleading, notice of hearing, or documents purporting to cure discrepancies therein are not filed by the continuance date. If the matter is not ready by the time of any second continuance, it may be ordered off-calendar or denied without prejudice, unless an application for a further continuance, made upon the personal appearance in court of counsel or self-represented party is granted.
- (2) If a proceeding has been properly noticed for its initial hearing, new notice is not required for any continuance unless the Court specifically orders such notice.
- (3) If an oral objection to any pleading is presented to the Court at the hearing thereon, the Court may continue the matter to allow for the filing of written objections, and for giving notice thereof to the petitioner. Unless otherwise ordered, the Court will not consider an objection unless it is in writing, and is filed and served at least ten (10) days prior to the date of the continued hearing. *[Rule 15.02 adopted effective July 1, 1996; amended effective July 1, 2005.]*

15.03 Filing Of Documents; And Review Prior To Hearing

A. Filing Documents For Calendared Matters

Except for good cause, all documents in support of a pleading must be filed with the clerk of the Court no later than five (5) court days before the calendared hearing thereon. This Rule applies, but is not limited, to affidavits of publication, proofs of subscribing witnesses, waivers of account, receipts, inventories, reappraisals for sale, agreements for in-kind distributions, **proposed orders**, and similar papers. At the Court's discretion, documents that are not filed in a timely manner may not be considered before or during the hearing; and the matter may be continued, denied without prejudice, or ordered off-calendar.

B. Inquiries Re Status Prior To Hearing

Counsel may contact the Court's research attorney two (2) court days prior to the hearing, to determine if the pleading and supporting documents have been reviewed, and if additional documents or explanations will be required. *[Rule 15.03 adopted July 1, 1996; amended effective July 1, 2005.]*

15.04 Execution And Verification Of Pleadings

Probate pleadings must be executed and verified as required by Chapter 2 of Division 3 of the Probate Code (commencing with Section 1020) and Chapter 3 of the Probate Rules of Court (commencing with Rule 7.101). *[Rule 15.04 adopted effective July 1, 1996; amended effective July 1, 2004.]*

15.05 General Notice Requirements

A. Notices Generally

These Rules do not increase or reduce the statutory notice requirements with respect to probate matters brought before the Court.

B. Burden Of Proving Proper Notice

It is the responsibility of the petitioner or his or her attorney, and not the responsibility of the Court Clerk, to give notice of any proceeding requiring notice, or cause it to be given; and also to file the proper proof of service of such notice.

C. Service Of The Petition In Addition To Notice

When notice of any petition or other application is served on a person requesting special notice, or if the petition is for approval of the accounting of a testamentary trustee, then a complete copy of the petition, along with any supporting papers, must be served with each notice of hearing. If the fiduciary or attorney is requesting extraordinary fees or compensation (i.e., fees or compensation other than the "ordinary" fees and compensation authorized by Probate Code §10800 and §10810), notice of hearing and a copy of the petition must be served on all interested parties. When service of a copy of the petition is required, the proof of service of notice must also show service of the copy.

D. Minimum Notice Requirement

When the Probate Code requires that a matter be set for noticed hearing, notice may not be shortened to less than ten (10) days.

E. Posting Of Notice By The Clerk

When posting of notice by the clerk is required, the party who requests the posting must do so in writing, and must provide the court clerk with an extra copy of the notice. *[Rule 15.05 adopted effective July 1, 1996; amended effective July 1, 2004.]*

15.06 Probate Orders And Decrees; Ex Parte Applications; Nunc Pro Tunc Correction Of Clerical Error

A. Orders And Decrees

- (1) Form Of Orders. Probate orders or decrees must be prepared by counsel or the self-represented petitioner, unless otherwise ordered by the Court. All probate orders or decrees must be complete in themselves (i.e., they must be worded so that their general effect can be determined without reference to the petition on which they are based). Orders and decrees must set forth the date of hearing; the Court's findings; the relief granted; and the names of persons, and descriptions of property or amounts of money, that are affected by the order, all with the same particularity as is required of judgments in civil matters.

Some printed forms of orders or decrees are designed to permit the attachment of supplemental material; if such form is utilized, attachments will be permitted if the judicial signature appears at the end of the last attachment, and the form itself includes the information that the document is executed at the end of the last attachment.

- (2) Judicial Signature

The place provided for the judicial signature must appear at the end of the order or judgment. No attachment, exhibit, or rider is permitted after the judicial signature.

The signature line must not appear on a page by itself, and pagination of documents must be adjusted accordingly.

The signature line for the judicial officer must be in the following format:

"Date: _____

Judge/Judge Pro Tempore
Superior Court"

- (3) Submitting Proposed Orders. If the parties wish to obtain formal orders on the date that the matter is calendared for hearing, then the proposed orders must be submitted to the clerk at least five (5) court days before the hearing.
- (4) Orders for Continuing Payments. All proposed orders for continuing payments must provide that the payments will commence on a date certain and will continue until a) a

date certain or b) for a specified period. The Court will not make orders that require continuing payments to run “until further order”.

- (5) Orders Distributing Estate to Trustee. Orders calling for distribution of estate assets to the trustee of a testamentary trust must set forth all provisions of the will or codicil relating to the trust or trustees, in a manner that will give effect to existing conditions at the time distribution is ordered. Pertinent provisions must be set forth in the present tense and third person.

B. Ex Parte Applications For Orders

- (1) In General. Applications for orders may be made ex parte unless a statute or Rule requires notice; and must be made as set forth in Local Rule 3.03.
- (2) Form Of Order. Except for form petitions and orders approved by the Judicial Council or this Court, all applications for ex parte orders must be accompanied by a separate proposed order, complete in itself. It is not sufficient for such order to provide merely that the application has been granted.
- (3) Special Notice. All applications for ex parte orders must contain an allegation that no special notice has been requested, or an allegation that any requested special notice has been waived (with identification of the persons requesting special notice). Any waiver of special notice must be filed with the application.
- (4) Sales Of Property. Ex parte petitions for orders for sale of stock or personal property must allege whether or not the property is specifically devised. If so, the consent of the specific devisee must accompany the petition.

C. Nunc Pro Tunc Correction Of Clerical Errors

- (1) In General. If, through any inadvertence, the minute order or the signed decree fails to state the order that was actually made by the Court, and such inadvertence is brought to the attention of the Court by affidavit or duly-executed declaration pursuant to Code of Civil Procedure §473, then the Court will, on its own motion, make a nunc pro tunc order correcting the mistake.
- (2) Form Of The Proposed Nunc Pro Tunc Order. The proposed nunc pro tunc order must not take the form of an amended order, and must be in substantially the following form:

"Upon consideration of the affidavit or declaration of [name] to correct a clerical error, the [identity of the order to be corrected, giving the title and date thereof] is corrected, on the Court's own motion, by striking the following [here set out the matter to be eliminated] and by inserting in lieu thereof the following: [here set out the correct matter]. This order is entered nunc pro tunc as of [here insert the date the incorrect order was signed]."

To prevent further errors, the complete clause or sentence in which the error occurs should be stricken from the original order or decree, even if only one word or figure therein requires correction. Reference should not be made to the page and line number of the corrected language.

- (3) Presentation To The Court. The proposed order must be submitted to the court clerk along with the affidavit or declaration that brings the error to the Court's attention.
- (4) Effect Of The Nunc Pro Tunc Order. The original order will not be physically changed by the clerk, but will be used in connection with the nunc pro tunc order correcting it. *[Rule 15.06 adopted effective July 1, 1996; amended effective July 1, 2004.]*

15.07 Provisions Relating To The Appointment Of Executors And Administrators

A. Acknowledgment Of Fiduciary Duties

Reference: Rule 7.150 of the California Rules of Court.

B. Special Letters

Petitions for special letters of administration will not be granted without prior notice to the surviving spouse, to the person nominated as executor, and to any other person who, after examination of the applicant by the Court, appears to be equitably entitled to notice. In appointing a special administrator, the Court will give preference to any person entitled to letters testamentary or of administration. If it appears that a bona fide contest exists, the Court will consider appointing a neutral person or corporation as special administrator.

C. Public Administrator

The Public Administrator of Siskiyou County is the District Attorney, whose offices are located at 311 Fourth Street, Yreka, California (mailing address P.O. Box 986, Yreka CA 96097). In all cases where it appears the Public Administrator may have priority to serve as personal representative of an estate, notice to the District Attorney must be given.

D. The Petition For Probate

- (1) Allegations Re Heirs and Beneficiaries. In addition to the required allegations (set forth in Probate Code §8002) in the petition for letters or for appointment, the petition must include the following information:
 - (a) As to the actual or nominated trustee of a trust that is a beneficiary of the decedent's estate, said trustee must be listed by name and title as a devisee or legatee, and, if a sole trustee is also the personal representative of the estate, the individual beneficiaries of the trust must be listed in the petition and be given notice of the proceedings. [Probate Code §1208.]
 - (b) When a beneficiary of the estate has died, notice must be given as required by Rule 7.51(e) of the California Rules of Court.
 - (c) As to contingent heirs, devisees and legatees, all such persons must be listed in the petition for probate or for letters of administration so that each will receive notice by mail of the hearing on the petition. This includes persons provided for in the will offered for probate, but whose legacy has been revoked by a subsequent codicil.

E. Subsequent Petitions For Probate

- (1) Admitting Subsequent Wills And Codicils. Every will or codicil not specifically mentioned in the original petition must be presented to the Court by way of an amended petition or a second petition, and new notice thereof must be published.
- (2) Noticing Subsequent Petitions. When a petition for letters testamentary or letters of administration with will annexed (“Letters CTA”) is filed after the admission to probate of a will disposing of the same decedent’s estate, notice is required just as for the original petition.

F. Service Of Notice When Recipient’s Address Is Unknown

Reference to: Rule 7.52 of the California Rules of Court.

G. Proof Of Written Will Or Codicil

- (1) Attachment To Petition. When a petition for probate of will and/or codicil is filed, a copy of the document(s) being offered for probate must be attached thereto and marked as an exhibit.
- (2) Proof Of Holographic Instrument. If the will or codicil is handwritten and a photographic copy is attached, then a typewritten copy of the text of the document must be attached as well. Holographic instruments may be proved by an appropriate affidavit or declaration setting forth the foundation upon which the declarant bases his/her statement that the handwriting is the decedent’s.
- (3) Proof Of Formal Wills. In uncontested will proceedings, if the attestation clause of the testamentary instrument is signed under penalty of perjury, then the will or codicil is deemed to be self-proving and can be admitted to probate without proof thereof by affidavit or declaration. If the attestation clause is unverified, any proof offered by a subscribing witness must be filed on Judicial Council form DE-131.

H. Bond Of Personal Representative

- (1) Effect Of Bond Waiver. If bond has been waived in the will or codicil, or if it is waived by all beneficiaries of the will by way of duly executed and filed waivers of bond, then the fact that bond has been waived must be alleged in the petition.
- (2) Non-resident Personal Representative. Reference to: Rule 7.201 of the California Rules of Court.
- (3) Duty To Apply For Order Increasing Bond. Reference to: Rule 7.204 of the California Rules of Court.
- (4) Reporting Bond In Interim Accountings. Every interim account for an estate in which bond has been posted must include a separate paragraph alleging a) the total amount of the posted bond; b) the appraised value of personal property on hand plus the estimated annual income to the estate from real and personal property; and c) a statement concerning any additional bond thereby required. Whenever appropriate, a prayer for increase or decrease of the posted bond must be included in the petition for settlement of the account.

- (5) Bond When Independent Powers Granted. When the personal representative is granted independent powers to sell real property or to lease it for a term of more than one year, the Court may require a bond that includes the equity value of the real property. *[Rule 15.07 adopted effective July 1, 1996; amended effective July 1, 2005.]*

15.08 Appearance Of Counsel In Uncontested Matters

A. Required Appearance At Hearing On Guardianship Or Conservatorship Petition

The petitioner or the petitioner's attorney must appear at any hearing on a petition for appointment of a guardian or conservator.

B. When Non-Appearance Allowed At Hearing On Petition

- (1) Except as otherwise provided by law or these Rules, all verified petitions in probate matters will be deemed submitted without an appearance, except that the attorney or petitioner must appear on a petition for confirmation of sale of either 1) real property, or 2) personal property valued in excess of One Hundred Dollars (\$100.00). As used in this Rule, "verified" means verified by the petitioner as set forth in Rule 15.04 hereof.
- (2) Before denying any petition where there is no required appearance, the Court, at its discretion, will continue the matter to a future law & motion calendar in order to give the petitioner or counsel an opportunity to appear. If there is no appearance or other response by the petitioner or counsel at the continued hearing, the Court may drop the matter from the calendar. (**Note:** it is the responsibility of the non-appearing petitioner or counsel to determine whether the matter has been approved or continued.) *[Rule 15.08 adopted July 1, 1996; amended effective July 1, 2001.]*

15.09 Contested Matters

The Court will hear contested matters at such dates and times as the Court deems appropriate. *[Rule 15.09 adopted effective July 1, 1996; amended effective July 1, 2004.]*

15.10 Orders For Family Allowance

A. Time Of Application

Applications for a family allowance order must be made in a timely manner. As a policy, the Court discourages requests for retroactive (nunc pro tunc) payment of a family allowance.

B. Duration Of Order

The duration of an order for family allowance is limited to six months if no inventory and appraisal has been filed, and to one year if an inventory and appraisal has been filed.

C. Estimate Of Monthly Income And Expenses

Every petition for a family allowance must set forth estimated monthly income, including receipt of any available government benefits; and if the petition seeks an allowance in

excess of \$1,000 per month, it must include an itemized estimate of monthly expenses.
[Rule 15.10 adopted July 1, 1996; amended and renumbered effective July 1, 2001.]

15.11 Probate Letters

A. Form Of Letters

Proposed Letters submitted for issuance must be complete in every aspect. Independent powers must be specifically stated, on the face of the Letters or in a referenced attachment; and execution of the oath must include date and place.

B. Re-Issuance Of Letters

Re-issuance of original Letters is discouraged, and any request for re-issuance of original Letters must be submitted to the Court in writing and must establish valid justification for the request. (This requirement does not apply to requests for certified copies of Letters).
[Rule 15.11 adopted effective July 1, 2001.]

15.12 Required Matters In A Petition For Final Distribution

A. Required In All Petitions For Final Distribution

In addition to items otherwise required by law, a petition for final distribution must include the following matters, unless set forth in the account and report:

- (1) A full and complete description of all assets to be distributed. The description must include all cash on hand, and must indicate whether or not promissory notes are secured or unsecured. If secured, the security interest must be described. Real property must include a complete legal description. **Note:** descriptions made by reference to the inventory and appraisal are not acceptable.
- (2) Facts specifically showing the entitlement of each heir to the portion of the estate to be distributed to that heir, including any information concerning predeceased children.
- (3) A computation of the attorney fees and representative commissions being requested, even if an accounting is waived. Where an accounting is waived and the statutory compensation is based upon receipts during probate, the method of computation must be set forth, together with an allegation that such receipts have been or will be reported on fiduciary income tax returns for the estate. Applications for compensation for extraordinary services will not be considered unless the caption and prayer of the petition, and the notice re distribution, contain a reference to such application for extraordinary compensation.
- (4) A statement regarding payment of all taxes pursuant to Probate Code §9650(b).
- (5) An allegation that all legal advertising, bond premiums, probate referee's fees, and costs of administration have been paid. (**Note:** the final account will not be approved, and neither will a petition to terminate proceedings be granted, unless the Court is satisfied that all costs of administration, including charges for legal advertising, have been paid.)
- (6) A schedule of claims showing the name of the claimant, amount claimed, date presented, date allowed, and, if paid, the date of payment.

As to any rejected claims, the date of rejection must be set forth; and the original of the notice of rejection, with affidavit of mailing to the creditor, must be filed.

Even if a claim has not been filed, the Court may approve payment of a debt if the accounting shows that such payment was made in compliance with the requirements of Probate Code §9154. Such approval is discretionary with the Court, and must be justified by appropriate allegations in a verified petition or by testimony in open court. [Estate of Sturm (1988) 201 Cal.App.3rd 14.]

- (7) An itemization of costs for which counsel or the personal representative has been paid or is seeking reimbursement. Ordinary overhead items, including but not limited to costs of duplication of documents, long distance charges, and automobile mileage, are not proper cost items.
- (8) A schedule showing the proration, if any, of taxes, fees, and costs.
- (9) In all cases where the character of property may affect distribution of the estate, a statement or listing of which assets are separate property and which assets are community property.
- (10) If distribution is to be made pursuant to an assignment of interest, then the details of the assignment, including the consideration therefore, shall be set forth in the petition; and the acknowledged assignment shall be filed with the Court.
- (11) The names and current addresses of all persons who are affected by the petition; each such person must be identified as an adult or a minor.
 - (a) If property is to be distributed to a minor, the minor's present age must be indicated.
 - (b) If a trust is established in which property will be distributed to a beneficiary upon reaching a given age, the petition must allege the present age of the distributee.
- (12) If the distribution is to be made to a minor or an incompetent, then facts showing compliance with Probate Code §3300, et seq., must be alleged; alternatively, current certified copies of letters of guardianship or conservatorship of the estate must be filed.
- (13) An allegation of compliance with Probate Code §9202 (notice of death to the Director of Health Services); or an allegation that notice is not required because decedent did not receive Medi-Cal services; or an allegation that no claim can be made by the Director of Health Services because decedent a) died before June 28, 1981; b) was under age 65; or c) was survived by a spouse, minor child, or disabled child.
- (14) An allegation of compliance with Revenue & Taxation Code §19513, if the estate exceeds \$1,000,000 and assets greater than \$250,000 are distributable to a non-resident.
- (15) A statement that complies with the disclosure requirements of Probate Code §1064(a)(4), or an allegation that no family or affiliate relationship exists between the fiduciary and any agent hired by the fiduciary for probate purposes.
- (16) A Schedule of Graduated Filing Fee Information as required by Rule 7.552 of the California Rules of Court.

B. Unequal Distributions; Distributions Against The Will

If the decree of distribution requires in-kind distribution of assets with the result that all heirs and devisees will not share equally in each asset, and the distribution is other than pursuant to the will or the laws of intestate succession, then an agreement indicating acceptance of the plan of distribution must be signed by each heir and devisee (with the signatures acknowledged) and filed with the Court.

C. Terms Of Testamentary Trust

The terms of any testamentary trust must be set out in full in the petition and in the order or decree, and not merely be incorporated by reference. Because the decree of distribution supersedes the will, the terms of the trust must be set forth in the decree in a manner that will give effect to the conditions existing at the time distribution is ordered. The pertinent provisions must be set forth in the present tense and in the third person instead of by merely quoting the will verbatim, because the will in some instances may be in the future tense and/or the first person, and may contain provisions that are no longer applicable.

D. Distribution To A Trust

If distribution is to be made to a trust, then either an acknowledged statement by the trustee accepting the property under the terms of the trust, or a petition by the executor or administrator for the designation of a substitute trustee, must be filed with the Court. *[Rule 15.12 adopted effective July 1, 1996; amended effective July 1, 2005.]*

15.13 Required Form Of Accounts In All Probate Proceedings

A. Accounts In General

All accounts filed in probate proceedings, including guardianship, conservatorship, and trust accounts, shall comply with Probate Code §§1060 et seq. A suggested form of summary of account is set forth in Appendix 8 of these Rules, and in Probate Code §1061.

B. Waivers Of Accounting

A detailed accounting may be waived when all persons having a valid interest in the matter have consented in writing. Only waivers given by competent adults are effective. All waivers must be filed with the Court or endorsed on the petition. The effect of full waivers is to make it unnecessary to list the details of receipts and disbursements; no other required matters may be waived.

C. Required Verification For Interim Accounts

Interim accounts in decedent's estate matters that are filed by individual fiduciaries (as opposed to final accounts, or accounts by institutional fiduciaries) must be supported by original statements verifying the balances of bank or investment accounts on the closing date of the estate accounting period). Balances shown in the estate accounting must be reconciled to the statements from the financial or investment institution.

D. Vouchers

Vouchers supporting accounts are not to be filed with the clerk unless the Court specifically orders them filed. *[Rule 15.13 adopted effective July 1, 1996; amended effective July 1, 2004.]*

15.14 Petition To Establish The Fact Of Death

A petition to establish the fact of death (to terminate a joint tenancy or life estate) must be verified, and must have the following documents attached as exhibits: 1) a copy of any instrument relating to any interest in the property; and 2) a copy of the death certificate. **(Note:** there is no statutory provision for Court determination of attorney fees in proceedings for termination of joint tenancy or a life estate; no request for fees for services of this type will be considered by the Court.) *[Rule 15.14 adopted effective July 1, 1996; amended effective July 1, 2001.]*

15.15 Petition To Set Aside Spousal Property**A. Filing Spousal Property Petition**

A petition for determination and/or confirmation of community property must be filed as a separate petition from a petition for probate of will or for letters of administration. If the spousal property petition is filed in a probate proceeding that has already been initiated, the cost for filing will be the amount charged for a subsequent application requiring a hearing. Otherwise, a full filing fee will be charged.

B. Required Allegations In Support Of Claim

A petition to determine and/or confirm community property must include the following allegations and supporting information:

- (1) Date and place of marriage;
- (2) Whether or not decedent owned any real or personal property on the date of marriage (if so, describe the property and state the approximate value on the date of marriage and at present);
- (3) Decedent's occupation at time of marriage;
- (4) Decedent's net worth at time of marriage;
- (5) Whether or not decedent received property after the date of marriage by gift, bequest, devise, descent, or as proceeds from life insurance or joint tenancy survivorship (if so, describe the asset and give approximate date of receipt and approximate value on the date of receipt and at present);
- (6) If property was received by decedent pursuant to item (5), above, whether or not it is still a part of the estate;
- (7) The date decedent first came to California;
- (8) The decedent's net worth upon arrival in California;
- (9) Any additional facts upon which the community property claim is based; and,

- (10) If the claim is based on any document, a copy must be attached to the petition, preferably a photocopy showing signatures.

C. Survivorship Restriction

If a spouse's right to take under a will is conditioned on survival for a specified period of time, no property will be set aside or confirmed to the spouse until expiration of the survivorship period.

D. Attorney's Fees

Attorney's fees for services relating to a spousal property petition are not subject to determination by the Court, but must be arranged between counsel and the petitioner.

[Rule 15.15 adopted effective July 1, 1996; amended effective July 1, 2004.]

15.16 Sales Of Real Property

A. Appraisals Within One Year

If the death of the decedent occurred more than one year prior to the date of filing of a petition for confirmation of sale of real property, then a reappraisal for the purposes of the sale must be filed prior to the date of the hearing for confirmation of the sale.

B. When Published Notice Of Sale Required

Publication of notice of sale of real property will be required whenever court confirmation of such sale is requested, unless a will and/or codicil specifically directs sale of the property, or specifically grants an executor (as distinguished from an administrator with will annexed) authority to sell the property without notice. This publication requirement applies whether or not the personal representative has been granted Independent Administration of Estates Act (IAEA) powers by the Court.

C. Noticing The Location Of The Property

The notice of sale of real property must set forth the street address of the property, if any; if there is no street address then the notice must describe the location of the property in addition to providing the legal description.

D. Compliance With The Terms Of The Notice

If notice of sale of real property is published, then any sale of the property must be in accordance with the terms of such notice. If a petition for confirmation of sale is filed alleging that the sale took place prior to the date of sale stated in the published notice, then the sale cannot be confirmed and new notice of sale must be published. Pursuant to Probate Code §10308, any petition for confirmation of sale must allege that the sale was made within 30 days prior to the date on which the petition was filed. The specific date of sale must be alleged in the return of sale and petition for its confirmation.

E. Effect Of Publication

The published notice of sale of real property constitutes a solicitation for offers. When the personal representative accepts an offer and files a petition for confirmation of sale, there must not be any variance between the terms of the notice and those described in the

petition. If the notice solicits cash offers only, then the Court will not confirm a sale on terms other than cash.

F. Date Of Sale Specified In Notice

If a petition for confirmation of sale of real property is filed prior to the date of sale specified in the notice, the Court cannot announce the sale on the date set for hearing, but must deny confirmation without prejudice to a new sale after another notice has been given as prescribed by law.

G. Terms And Conditions Of Sale

The terms and conditions of the sale must be stated in the Report of Sale filed with the Court, as specific attachments if necessary. Merely attaching a copy of the sales contract is not sufficient to satisfy this requirement and is, in fact, discouraged in most cases.

H. Broker's Commission

The Court will not allow a broker's commission for the sale of residential real property that is in excess of six (6) percent, unless a higher commission is justified by exceptional circumstances. The broker's commission on non-residential real property will be set by the Court on an individual basis. No commission will be allowed to a broker who is a buyer of the subject property.

I. Notice Of Abatement Sale To Specific Devisee

If the sale is for abatement, notice of time and place of hearing on the return of sale must be given to the specific devisee of the property; otherwise, his or her consent to the sale must be filed prior to the hearing.

J. Requirement Of Attorney's Presence At Confirmation

In the absence of the attorney of record, the Court will not proceed on a petition for confirmation of sale of real property and/or for sale of personal property.

K. Overbids

If the sale returned for confirmation is upon credit, and a higher offer which is made to the Court pursuant to Probate Code §10313 is for either cash or credit (whether on the same or different credit terms), the higher offer will be considered only if the personal representative, prior to confirmation of sale, informs the Court in person or through counsel that the offer is acceptable.

L. Required Evidence Of Ability To Pay Overbid

No person will be entitled to appear and bid in a proceeding to confirm a sale unless that person presents to the personal representative, or to counsel for the personal representative, sufficient evidence of that person's ability to pay, forthwith, a deposit of at least ten percent (10%) of the amount fixed by the petition as the overbid price.

[Prob.C §10311(a)(2).] Bidding will proceed in such increments from the overbid as the Court deems appropriate. *[Rule 15.16 adopted effective July 1, 1996. amended effective July 1, 2005.]*

15.17 Attorneys Fees

In all petitions requesting attorney fees, both ordinary and extraordinary, a specific sum (not merely a "reasonable amount") must be requested. *[Rule 15.17 adopted effective July 1, 1996; amended effective July 1, 2001.]*

15.18 Non-Statutory (Extraordinary) Fees And Commissions

A. Discretion Of The Court; and Standards For Consideration

- (1) The award of extraordinary fees and commissions is within the discretion of the Court.
- (2) The standards by which requests for extraordinary fees and commissions will be measured are reasonableness, and benefit to the interested parties. The Court will take into consideration the following:
 - (a) Nature and difficulty of the services;
 - (b) Results achieved;
 - (c) Benefit to the estate, conservatee or ward;
 - (d) Productivity of the time spent in performing the services;
 - (e) Expertise and experience of the person requesting the fees;
 - (f) Hourly rate for the person performing the services; and
 - (g) Total amount requested in relation to the size and income of the estate.

B. Contents Of Petition For Extraordinary Fees And Commissions

A petition filed under any provision of the Probate Code which requests fees or commissions in excess of the authorized statutory compensation must include: 1) a declaration by the attorney, personal representative, trustee, or other fiduciary stating the services rendered, or to be rendered, by each of them, itemized by date, time and service rendered; 2) the amount requested for each item of service, together with the total amount requested; and 3) a reference in the caption and prayer to the additional fees. In addition, the request for extraordinary fees and/or commission must be included in the notice of hearing on the petition.

C. Use Of Paralegals

Reference to: California Rules of Court, Rule 7.703(e). *[Rule 15.18 adopted effective July 1, 1996; amended effective July 1, 2004.]*

15.19 Guardianship Appointments

A. Agency Investigations

- (1) Referral. All petitions for appointment of a guardian will be referred by the Court for an investigation, pursuant to Probate Code Sections 1513 and 1513.1. The investigation will be conducted by one of the following agencies, as ordered by the Court:

Family Court Services
500 N. Main Street
Yreka CA 96097
530/842-0192

Adult & Children's Services
490 S. Broadway
Yreka CA 96097
530/841-4200

- (2) Agency Copies. When a petition for appointment of guardian is filed, the petitioner must provide an additional copy of the petition and of all supporting documents for transmittal by the clerk to the appropriate investigating agency. (**Note:** This requirement does not relieve the petitioner or counsel from the responsibility of personally providing copies of the petition and supporting documents to the agency.)

B. Appointment Of Temporary Guardian

- (1) Ex Parte Applications. Applications for appointment of a temporary guardian may be submitted ex parte for determination by the Court, with or without an appearance by the petitioner or counsel. If the petitioner or counsel wishes to appear on the ex parte application, he or she must calendar and notice the matter pursuant to Local Rule 3.03.
- (2) Hearings On Temporary Guardianships. After a petition for the appointment of a temporary guardian of the person of a minor is filed, the following hearings may be held, consistent with the intent of Probate Code §2250:
- (a) A noticed hearing on an ex parte petition for appointment of temporary guardian. When it sets the noticed hearing, the Court may make other appropriate orders relating to the application.
 - (b) A reconsideration hearing to be conducted on the regular guardianship calendar within 30 days from the date of the ex parte order granting temporary guardianship, for the purpose of reviewing the merits and the status of the temporary guardianship. At this hearing, the appropriate investigative agency will provide the Court with a recommendation as to whether or not the temporary guardianship should be continued or be terminated. More than one reconsideration hearing may be required.
- (3) Hearings On Petitions For General Guardian. Petitions for appointment of a general guardian are set for hearing by the clerk of the Court, and normally are calendared for hearing six to eight (6-8) weeks after the petition for general guardianship is filed.
- (4) Notice Regarding Temporary Guardianships. The order appointing a temporary guardian will identify the agency that will conduct the investigation, and the order will require that the temporary guardian give notice of the reconsideration hearing to the parents of the minor (this notice is in addition to the notice of hearing required by Probate Code §1511).
[Rule 15.19 adopted effective July 1, 1996; amended effective July 1, 2004.]

15.20 Probate Conservatorship Appointments

A. Public Guardian

The Public Guardian for Siskiyou County is the Siskiyou County Department of Adult & Children's Services, 490 S. Broadway, Yreka, California 96097, telephone (530) 841-4200.

B. Court Investigator

When a petition for appointment of a conservator is filed, the petitioner must also submit a fully completed Judicial Council Form GC-330, "Order Appointing Court Investigator", for the Court's approval, and must provide the clerk with an additional copy of that document for transmittal to the Court Investigator after the appointment has been made. For the same purpose, the petitioner must submit an extra copy of the petition and all supporting documents to the Court Clerk at the time of filing. (**Note:** This requirement does not relieve the petitioner or counsel from the responsibility of personally providing copies of the petition and supporting documents to the Court Investigator, and from giving the Investigator notice of hearings on the petition.) *[Rule 15.20 adopted effective July 1, 1996; amended and/or renumbered effective July 1, 2004.]*

15.21 Independent Powers In Guardianship And Conservatorship Matters

A. Application Of This Rule

This Rule applies whether the request for independent powers is made in the initial petition for appointment or by a subsequent petition.

B. Standard Of Proof

The Court will not approve a petition for the grant of independent powers to a guardian or conservator except upon adequate showing that the particular power being requested is necessary and is for the advantage, benefit, and best interests of the estate. In ruling on the request, the Court will consider the circumstances of the case, the qualifications of the guardian or conservator, and the potential expense of further proceedings should the requested independent powers be denied.

C. Sale Of Residence

A request for authority to sell the current or former residence of a ward or conservatee must include the information that is required by Probate Code §2540(b).

D. Return And Confirmation Of Sale

When the independent power to sell real estate is granted, the sale must be returned to the Court for over-bidding and confirmation.

E. Statement Of Powers

Any independent powers that are granted by the Court must be set forth at length in the Order and in the Letters. If the powers are granted by a subsequent order, or if independent powers already granted are withdrawn or limited, new Letters must be issued. *[Rule 15.21 adopted effective July 1, 2001; amended and/or renumbered effective July 1, 2004.]*

15.22 Bond In Guardianships And Conservatorships

The Court ordinarily will fix bond in the amount permitted by Prob.C §2320 for a bond given under that section by an admitted surety insurer. However, upon a showing of good cause, the Court may increase or decrease the bond amount, and, if it appears likely that the conditions of Prob.C §2628(b) will be satisfied for the duration of the estate, the

Court may dispense with bond. *[Rule 15.22 adopted effective July 1, 1996; renumbered effective July 1, 2004.]*

15.23 Conservator's Handbook

A. Purchase And Proof Of Purchase

Every conservator appointed by this Court, with the exception of those excluded by Rule 15.23.B, below, must purchase a copy of the Conservator's Handbook from the Clerk of the Court. [Probate Code §1835.] Proof of purchase of the Handbook must be filed with the Court not later than five (5) days before the scheduled hearing on the petition for appointment of conservator. Failure to meet the requirement of subsection (1), above, may result in the petition for appointment being ordered off calendar, and if the petitioner is the temporary conservator, it may result in the suspension of that person's powers as temporary conservator.

B. Handbook Purchase Not Required

The Public Guardian, corporate fiduciaries, banks, and other entities authorized to conduct the business of a trust company are not required to purchase the Conservator's Handbook. *[Rule 15.23.B adopted effective July 1, 1996; renumbered effective July 1, 2004.]*

15.24 Responsibility Of Parents To Support Ward

Because parents are required by statute to support their children, the Court will not permit the guardianship estate to be used for the ward's maintenance where one or both parents are living, except upon a showing of the parent's financial inability to provide support (preferably evidenced by a Judicial Council Form 1285.50 "Income and Expense Declaration") or a showing of other circumstances that would justify the Court's departure from this Rule; any departure must be in the best interests of the ward. *[Rule 15.24 adopted effective July 1, 1996; renumbered effective July 1, 2004.]*

15.25 Investments By Guardians

A. Standards

- (1) The standard set forth in Probate Code §16040(a), providing for investments by trustees, is the standard applied by the Court in authorizing proposed investments by guardians. The guardian should also consider the circumstances of the estate, the indicated cash needs of the ward, and the date of prospective termination of the guardianship. Investments by guardians must be prudent and in keeping with the size and character of the ward's estate.

B. Unauthorized Investments

- (1) Except upon a strong showing of good cause, the Court will not approve investment of the ward's funds in unsecured loans, secured loans to near relatives, or debenture bonds (except those which are part of a large issue and are well-seasoned and listed on an established securities exchange).

- (2) The Court will not approve investment of the ward's funds in bonds or obligations of foreign governments or corporations, whether payable in dollars or not.
- (3) In most instances, investment in real estate, either by purchase or encumbrance, will not be approved by the Court unless supported by an appraisal of the property, performed by the probate referee. *[Rule 15.25 adopted effective July 1, 1996; amended and/or renumbered effective July 1, 2004.]*

15.26 Blocked Accounts In Guardianships And Conservatorships

A. Time Of Establishment

A request to deposit funds of a guardianship or conservatorship estate in blocked accounts, for the purpose of reducing bond or otherwise, may be included in the petition for appointment or made in a subsequent petition.

B. Type Of Account

All deposits into blocked accounts must be made into federally insured, interest-bearing accounts, with no maturity date unless otherwise ordered by the Court. If funds are to be placed in an account having a maturity date, the applicant and counsel are cautioned that funds must also be maintained in another account in an amount sufficient to pay reasonably foreseeable expenses (e.g., taxes) without incurring penalties or loss of interest.

C. Maximum Amount Of Deposits

The initial deposit into any one blocked account must not exceed Ninety Thousand Dollars (\$90,000). In no event may more than One Hundred Thousand Dollars (\$100,000) be held in a single federally-insured depository. If it becomes necessary to transfer funds to an additional depository in order to comply with this Rule, prior approval of the Court is required.

D. Proof Of Deposit Into Blocked Account

Within 30 days after an order for deposit into a blocked account is signed by the Court, the trustee of the account must file a receipt from the depository, evidencing the ordered deposit.

E. Withdrawals From Blocked Accounts

- (1) Court Order Required. Except when the terms of the order for deposit provide for automatic withdrawal by the minor upon attaining majority, withdrawals of principal or interest may not be made unless ordered by the Court.
- (2) Supporting Documentation. Every application for an order to withdraw funds from a blocked account must be verified. The following documents must be attached to the application:
 - (a) a certified copy of the birth certificate of the minor, and
 - (b) either (i) an updated savings passbook or a statement showing all deposits and withdrawals since the account was opened, or (ii) a letter from the depository

identifying the account and setting forth the dates and amounts of all deposits and withdrawals, along with the current balance.

- (3) Consent Of Minor. If the minor is fourteen years of age or older, he or she (as well as the guardian or trustee) must sign the petition.
- (4) Ex Parte Requests. A request for withdrawal from a blocked account may be made ex parte.
- (5) Parental Responsibilities; Withdrawals For The Payment Of Taxes. Except for withdrawals to pay taxes on a minor's funds, petitions for withdrawals ordinarily will not be granted if either or both parents of the minor are living and either is financially able to pay the requested expenditure. Except for petitions for withdrawals to pay taxes, a financial declaration by the parents or parent describing his, her, or their income and expenses must be attached to the petition (Judicial Council Form 1285.50 is recommended). Also, a statement regarding the minor's employment and income, if any, must be attached to the application. Copies of bills, statements, or letters related to the request also must be attached. If the application is for payment of taxes on the minor's funds, copies of the applicable tax returns must be submitted with the petition, but must not be attached to the petition, and must be marked "confidential".
- (6) Withdrawal For Purchase Of Vehicle. If the requested withdrawal is for the purchase of a vehicle, a copy of the proposed purchase/sale agreement must be attached to the petition; the agreement must show the type of vehicle, year, purchase price, and whether the payment will be made in full or in specified installments. Because the petition may be denied, a binding purchase/sale agreement must not be entered into before a court order is obtained. In addition to the aforesaid agreement, a casualty insurance quote must be attached to the petition; the quote must show that the minimum public liability coverage equals or exceeds the funds that will remain on deposit after the purchase, and the petition must identify the person or persons who will pay for the insurance.
- (7) Withdrawal For Medical Expenses. If the request for withdrawal pertains to medical care for an accident or other casualty, or for a legal matter, the petition must explain why the expense is necessary and why it is not covered by insurance or other resource.
- (8) Withdrawals For Reimbursement. If the request is for reimbursement for an expense already paid, then proof of payment (i.e., cancelled check or receipt) must be attached to the petition. *[Rule 15.26 adopted effective July 1, 1996; amended and/or renumbered effective July 1, 2004.]*

15.27 Accounts of Guardians and Conservators

A. Form

The form of accounts shall conform to Probate Code §1060, et seq., and to Appendix 8 of these Rules.

B. Multiple Accounts In Guardianships

When a guardian accounts for the assets of more than one ward in the same proceeding, the accounting for each ward must be set forth separately.

C. Final Accounts In Guardianships

The Court does not favor the waiver of final accounts by the ward, and generally will not approve a final report when the account is waived unless the ward is present in court at the time of the hearing.

D. Notice Of Death To Director Of Health Services

Upon termination of a proceeding due to the death of the ward or conservatee, the final report and account must contain either an allegation that notice of said death was provided to the Director of Health Services (as required by Probate Code §215) or an allegation that no such notice is required.

E. Order Dispensing With Accounting

If it appears likely that the estate will satisfy the conditions of Probate Code §2628(b) throughout its duration, the Court may dispense with an accounting. Application for an order dispensing with accountings may be made at the time of the appointment of the guardian or conservator, or when the interim account is due. *[Rule 15.27 adopted effective July 1, 1996; renumbered effective July 1, 2004.]*

15.28 Change Of Conservatee's Address

The conservator must notify the Court of any change of the conservatee's residence, within thirty (30) days of the conservatee's move, by filing a notice of change of address with the Clerk of the Court. *[Rule 15.28 adopted effective July 1, 1996, renumbered effective July 1, 2004.]*

15.29 Procedures Upon The Death Of The Ward Or Conservatee

A. Required Notice To Court

The guardian or conservator must notify the court, within thirty (30) days and in writing, of the death of the ward or conservatee.

B. Termination Of The Guardianship Or Conservatorship Estate

If the ward dies before reaching majority, or upon the death of the conservatee, the guardian or conservator must petition the Court to terminate the estate; and may, in conjunction with that petition, seek allowance for claims against the estate and for disposition of the estate if the estate is valued at less than \$60,000 and can be disposed of pursuant to Probate Code Sections 13100 through 13111. If the provisions of §§13100 et seq. are utilized, the petition for termination and the final account must include a declaration, pursuant to Probate Code §13101, from each person entitled to distribution of the estate. *[Rule 15.29 adopted as Rule 15.19.1 effective July 1, 1996; renumbered effective July 1, 2005.]*

CHAPTER 16: JUVENILE DEPENDANCY RULES

16.01 General Applicability Of The Siskiyou County Local Rules Of Court To Juvenile Dependency Proceedings

Except to the extent that there may be a conflict with the Rules in this Section 16, the Local Rules pertaining to civil, family law, probate and criminal actions are incorporated herein by this reference as though fully set forth at length, and are hereby made applicable to all juvenile dependency proceedings in the Siskiyou County Superior Court. *[Rule 16.01 adopted effective July 1, 1997; amended and renumbered effective July 1, 2002.]*

16.02 Calendar Matters

A. Dependency Master Calendar

The Court maintains a weekly master calendar for dependency proceedings. However, cases assigned to that calendar may be subject to calendar change.

B. Detention Hearings In Dependency Proceedings

In general, detention matters in dependency cases will be set for hearing at 8:15 AM daily, except on the master calendar day when they will be set at 11:00 or 1:30 PM. It is the responsibility of the detaining agency to give notice to the Court's Calendar Coordinator of any detention matter to be heard on the master calendar, by no later than 3:00 PM of the immediately preceding court day.

If a dependency detention matter must be heard at any time other than as set forth in this Rule 16.02.B, the detaining agency must give notice to the Court's Calendar Coordinator by no later than 12:00 PM (noon) on the court day immediately preceding the day of the proposed hearing, so that the Coordinator can reserve a bench officer, a reporter, and security personnel.

It is the responsibility of the detaining agency to give timely notice of the date and time of any detention hearing to the Supervising Clerk of the Civil/Juvenile Division, as well as to all parties and to all counsel who may have been appointed.

C. Ex Parte Applications In Dependency Proceedings

Local Rule 3.03 regarding ex parte applications, including the date, time, and manner of notice, applies to proceedings in the Juvenile Court. Unless otherwise directed by the Court's Calendar Coordinator, ex parte proceedings in dependency matters are to be set and noticed for hearing at 8:15 AM or 1:15 PM daily, except on the regularly scheduled master calendar day when ex parte matters will be heard during the master calendar. **No matter may be presented for ex parte consideration by the Court, except on a showing of good cause, without prior notice to, or waiver by, counsel for each party in accordance with these Rules, with the exception of applications by counsel for funding for investigators or expert consultants, or other matters as may be authorized or required by law.** *[Rule 16.02 adopted effective July 1, 1997; amended and renumbered effective July 1, 2002.]*

16.03 Attorneys Representing Parties In Dependency Proceedings

A. Adoption Of Rule

This Rule 16.03 is adopted to comply with Rule 1438(a) of the California Rules of Court, as amended July 1, 2001.

B. Competency Of Counsel; Required Experience And Education; Standards Of Representation; And Caseload Guidelines

- (1) Competency Of Counsel. Every party in a dependency proceeding who is represented by an attorney is entitled to competent counsel as defined by Rule 1438(c)(1) of the California Rules of Court.
- (2) Experience And Education Of Counsel. An attorney seeking appointment as counsel for a party or parties in dependency proceedings must meet the experience and education standards set forth by Rule 1438(c)(3) of the California Rules of Court.
- (3) Standards Of Representation. An attorney representing a party or parties in dependency proceedings, and the agents of that attorney, are expected to meet the standards of representation set forth in Rule 1438(c)(4) of the California Rules of Court.
- (4) Caseload Guidelines. Pursuant to Rule 1438(c)(5) of the California Rules of Court, the attorney for a child in a dependency matter must adopt caseload management practices that allow for effective performance of the duties required by CRC Rules 1438(c)(3) and 1438(c)(4), referenced above.

C. Appointment Of Counsel For Parents And Guardians

- (1) Applications. Applications by parents and guardians who seek appointed counsel in dependency proceedings must be presented by oral request in open court, or by oral or written request to the Supervising Clerk of the Civil/Juvenile Division.
- (2) Appointment. Upon application, or on its own after finding good cause, the Court will appoint either the Siskiyou County Public Defender or a private attorney or law firm to represent parents and guardians. When the Public Defender is appointed, the Public Defender will be responsible for assigning a particular attorney to each case.

D. Appointment And Responsibilities Of Counsel For Children

- (1) Appointment. Pursuant to Rule 1438(b) of the California Rules of Court, the Court will appoint either the Siskiyou County District Attorney or an individual attorney or firm in private practice to represent children in dependency proceedings. If the District Attorney is appointed, the District Attorney will be responsible for assigning a particular attorney to each case.
- (2) Appointment Not Required. An attorney for a child need not be appointed if the Court finds, in any given case, that the child would not benefit from counsel because the circumstances described in CRC Rule 1438(b)(1) apply to that child. In such case, the record will reflect the Court's findings.
- (3) Responsibilities Of Counsel For Children. An attorney for a child or children in dependency matters is specially charged with the duties and responsibilities set forth in Welfare & Institutions Code §317(e).

E. Other Appointment Matters

- (1) Appointment Panel. Attorneys for children and other parties in dependency proceedings will be appointed by the Court from a panel or panels maintained by the Supervising Clerk of the Civil/Juvenile Division; said panel or panels will be comprised of attorneys or law firms that meet the requirements set forth in CRC Rule 1438 and these Local Rules. The supervising Judge of the Juvenile Court will, from time-to-time and at his/her discretion, require evidence of the competency of attorneys who seek to be included on the panel or panels from which dependency appointments are made.
- (2) Notification Of Appointment. The Clerk of the Civil/Juvenile Division, by telephone call to an appointed attorney's business office, will notify counsel promptly upon appointment.

F. Special Appearances

Because the qualifications of attorneys who represent parties in juvenile dependency matters are regulated by W&IC §317.6, and CRC Rule 1438(c), special appearances on behalf of attorneys who have been appointed pursuant to W&IC §317(d) are discouraged, especially in contested matters. Special appearances will be permitted in the following circumstances only: 1) with the Court's permission, upon a showing of good cause; or 2) when the matter is calendared only for setting of a future court date (e.g., for setting a continuance or a contested hearing), in which case counsel making a special appearance must know and be prepared to stipulate to the available dates of appointed counsel.

G. Compensation And Claims

- (1) Compensation. Appointed attorneys or agencies will be reasonably compensated for their services and expenses, according to rates and schedules to be fixed by the Presiding Judge of the Superior Court.
- (2) Claims For Compensation. Claims for compensation by appointed attorneys or agencies must be submitted in writing to the supervising Judge of the Juvenile Court, or to such agency as may be designated by the Court from time-to-time, in the form, and not later than the time, prescribed in Local Rule 13.07. Failure to comply with these requirements may be deemed a waiver of the claim for and right to reimbursement. Properly submitted claims will be reviewed and, when approved, will be forwarded to the County Auditor for payment.

H. Client Complaints

Complaints by or questions from a party in a dependency hearing regarding his/her representation will be addressed as follows:

- (1) Initial Referral. Complaints or questions will be referred initially, for informal resolution, to the agency, attorney, or law firm appointed to represent the party.
- (2) Formal Resolution. If the party was not represented by an appointed agency, attorney, or law firm, or if the issue remains unresolved after referral to the appointed agency, attorney or law firm, the party may submit his/her complaint or question, in writing, to the Presiding Judge of the Superior Court. In most cases, the Court will utilize one of the following procedures to resolve the matter:

- (a) Conduct its own review of the complaint or question, and take appropriate action if required; or
- (b) Appoint a panel of three (3) attorneys, not associated with the particular case, to review and comment on the complaint or question and report its findings and recommendations to the Court. The Court then may accept or reject the recommendations of the review panel, or conduct its own review, thereafter taking whatever appropriate action it determines is necessary.

I. Information Received By The Court Concerning The Child Or The Child's Interests

If the Court receives information from some person other than the attorney for a child, regarding any interest or right of the child, the Court may provide that information to the child's attorney and direct the attorney to investigate the matter further and to report his/her findings to the Court. If the child has no attorney and such information is brought to the Court's attention, the Court may appoint an attorney for the child for the purpose of investigating and reporting on the information. *[Rule 16.03 adopted effective July 1, 1996; amended and renumbered effective July 1, 2002.]*

16.04 Court-Appointed Special Advocate Program

A. Designation Of The Local CASA

The organization "Choices for Children" is designated as the Court-Appointed Special Advocate ("CASA") program for Siskiyou County. This designation will remain in effect until terminated or modified by the presiding judge of the Superior Court. The designated CASA program must report regularly to the Superior Court with evidence that it is operating under the guidelines established by the National CASA Association and by Rule 1424 of the California Rules of Court. The organization's mailing address is P.O. Box 206, Yreka CA 96097.

B. The Advocate Program

- (1) Request For Appointment. A request for appointment of a child advocate in dependency proceedings may be made orally or by written application in open court, or ex parte by any interested person, or by the Court on its own motion. After approval by the Court, the referral shall be forwarded to the CASA program's office for screening and assignment. When an appropriate advocate has been selected by CASA, CASA must submit its selection to the Court for review and appointment.
- (2) Officer Of The Court. An advocate is an officer of the Court and is bound by these Rules. Each advocate will be sworn in by a Superior Court Judge before beginning his/her duties, and must subscribe to the written oath required by the Court. The duties and responsibilities of a child advocate are set forth in Welfare & Institutions Code Section 356.5.
- (3) Specific Duties. The Court will, in its initial order of appointment and/or in subsequent orders, specifically delineate the advocate's duties in each case. Such duties may include conducting an independent investigation of the circumstances of the case; interviewing and observing the child as well as other individuals where appropriate; reviewing pertinent records and reports; and recommending visitation rights for the child's

grandparents, siblings, and other relatives. The advocate shall report the results of his/her specific duties directly to the Court.

- (4) Required Reporting Of Child Abuse. A CASA advocate is a mandated child abuse reporter with respect to the case to which he/she has been assigned. (CRC Rule 1424(j)(2).)
- (5) Advocate's Right To Timely Notice. The designated CASA organization shall be given timely notice, by the moving party, of any motion concerning a child for whom a CASA advocate has been appointed.
- (6) Advocate's Right To Appear And Be Represented. An advocate has the right to be present and to be heard at all court proceedings involving the subject child, and to accompany the child into chambers for conferences. The advocate will not be subject to exclusion by virtue of the fact that he/she may be called to testify at some point in the proceedings. An advocate has the right to appear with counsel and to request court-appointed counsel if the need arises.
- (7) Transition From Dependency To Delinquency. Current CASA cases involving children facing crossover from dependency status to delinquency status will transition with the child pursuant to Rule 1424(a)(1) of the California Rules of Court. The advocate will provide input to the Court at least five (5) days prior to the Delinquency Disposition Hearing when the 241.1 Protocol is initiated.
- (8) Visitation Throughout Dependency And Delinquency. The advocate must visit the child regularly until the child is in a permanent placement. Thereafter, the advocate must monitor the case as appropriate until it is dismissed.

C. Education Advocacy; Release Of Information To Education Advocate

- (1) Appointment. The Court, upon the request of any interested person or upon its own motion, may order the appointment of a specific suitable person from the CASA Program to serve as an education advocate in a designated juvenile dependency case.
- (2) Duties. The appointed Education Advocate shall act as an education consultant to the Court and the Human Services Department in the matter of the designated case.
- (3) Access To Information. The appointed Education Advocate shall have access to all information contained in the Court's file, as well as all information in the possession of the Department of Human Services relating to the subject case.
- (4) Reporting. The Education Advocate shall report to the Court either through the Department or through any CASA who may be appointed as advocate for the subject child.

D. Service Of CASA Reports

The CASA Reports required by Welfare and Institutions Code Section 102(c)(1) must be served as follows:

- (1) Time And Manner Of Service. Not later than five calendar days prior to any hearing at which a CASA Report will first be considered, copies of that Report *must* be served on all counsel of record, on the Department of Human Services/Adult and Children's

Services, and on any party to the proceeding not represented by counsel. (**Note:** the Court favors personal service of the Report over service by mail.)

- (2) Alternative Service Of Reports. If a CASA Report cannot be served on an attorney within the time established by Local Rule 16.04.D.1, and if the Clerk of the Civil/Juvenile Court maintains a pickup box for that attorney, then CASA may serve the Report by depositing it in the pickup box maintained by the Clerk for that attorney. Service in this manner will not be deemed complete unless CASA has complied with the requirements of Local Rule 16.04.D.3. This alternative method of service is authorized by the Court in consideration of the non-profit and volunteer status of "Choices for Children".
- (3) Simultaneous Service Of Notice By Mail. Whenever CASA delivers a CASA Report to a party's attorney by use of the attorney's pickup box maintained by the Clerk of the Court, CASA must immediately serve upon that same attorney, by postage-prepaid first-class mail, a document entitled "Notice of Filing CASA Report" which states the caption of the cause and its case number, and further states that the Report has been placed in said pickup box. This Notice will be required only if the Report so delivered is filed with the Court.
- (4) Limitations On The Privilege. The service privilege described by Rule 16.04.D.2 extends to service of CASA Reports only.

E. Service Of W&IC §388 Petitions

If a CASA advocate files a petition pursuant to Welfare & Institutions Code Section 388, such petition must be served according to the provisions of Code of Civil Procedure Sections 1011, 1012, or 1013.

F. Proof Of Service Of CASA Documents

A proof of service indicating the method of service must accompany any document filed by a CASA advocate in Juvenile Court proceedings, including CASA Reports.

G. Calendar Priority For CASA Matters

Because CASA advocates are providing volunteer services for the benefit of the Court as well as for the children for whom they advocate, proceedings at which the CASA advocate appears will be granted priority on the Court's calendar whenever it is feasible to do so. *[Rule 16.04 adopted effective July 1, 1996; amended and renumbered effective July 1, 2002.]*

16.05 Dependency Mediation

A. Designation Of Dependency Mediation Program

This Court has established a mediation program for dependency matters. The dependency mediation program operates under the protocol established by the Siskiyou County Unified Courts Dependency Mediation Guidelines. The mediation program is administered by the Director of Siskiyou County Family Court Services, located at 500 No. Main St., Yreka CA 96097.

B. Mediation Services Provided

Services provided by the Court's mediation program include mediation, as well as independent meetings when appropriate.

- (1) Mediator's Review. The Mediator is authorized to review the documents in the Court's file prior to any mediation session. (The Mediator will not draw conclusions of fact during the review process.)
- (2) Pre-Mediation Session. The Mediator may first meet with agency and party representatives, to begin fact-finding and issue development. These representatives might include attorneys for the parents and children; employees of Adult and Children's Services; Court Appointed Special Advocates; and when appropriate, the child welfare representative for a Native American tribe.
- (3) Mediation; And Independent Meetings. The Mediator may conduct mediation sessions with the parents and other interested persons who are involved in the case. When appropriate, the Mediator may meet with individual family members, interested persons, and agency representatives; any such independent meetings will be conducted in a manner that promotes neutrality.
- (4) Mediation Agreement. When appropriate, the terms and conditions of a mediation agreement may be reflected in a memo from the Mediator, or may be reduced to a writing signed by appropriate parties to the agreement and their respective counsel. Only written and fully approved mediated agreements may be presented to the Court for its approval and issuance of orders in compliance with the terms and conditions of the agreement.
- (5) No Agreement. If no agreement is reached in mediation, the Mediator may file a memo with the Court indicating failure of the parties to reach an agreement; the memo will include any additional information that the parties have agreed can be made known to the Court. If no agreement has been reached, the Mediator will not make any recommendations to the Court.

C. Referrals To Mediation

- (1) Referrals In General. Referrals to mediation may take place after the filing of a petition pursuant to Welfare & Institutions Code Section 301, and/or in any other proceeding pursuant to W&IC §301, and/or in any other dependency matter that might benefit from mediation. Referrals to mediation will be made primarily by the Judge of the Juvenile Court.

Cases will be referred to mediation along the continuum of the dependency court process, and will remain subject to mediation throughout that process. Cases generally will not be referred to mediation prior to the jurisdiction hearing.

The determining factor for referral of a dependency matter to mediation is not the current status of the case, but whether or not the unresolved issues of the case would benefit from mediation.

- (2) Party-Initiated Referrals. Any party to a dependency action may circulate a "Request for Mediation" form to the interested parties, and arrange a mutually agreeable date to mediate any issue in the proceeding. The requesting party must notify the Mediator of the requested date and time.

The party who requests the mediation will be responsible for notifying the participants of the date and time assigned by the Mediator. (The Mediator will not be responsible for providing notice of date and time to any of the anticipated participants.)

If an agreement is reached during a party-initiated mediation process, and the agreement creates a change in the relevant circumstances of the case, then the requesting party may file a W&IC §388 petition for the purpose of reporting the agreement to the Court.

- (3) Additional Participants. Any party who intends to invite additional participants to the mediation (e.g., family members or support persons) must so inform the Mediator no less than twenty-four (24) hours prior to the mediation.

D. Confidentiality

All dependency mediations are strictly confidential. Participants are precluded from making reference, outside of a mediation session, to matters discussed during the course of mediation. All participants in mediation will be required to sign a confidentiality agreement prior to participation.

It is the responsibility of agencies, tribes, and attorneys to advise their representatives, clients, and any other participants in mediation of the confidentiality requirement. [Fam.Code §3177; Ev.Code §§ 1115, 1119.]

E. Special Circumstances

- (1) Children In Mediation. Children may be involved in the mediation process if the parties to the mediation believe that the children and/or the process would benefit from that participation. Final discretion as to the children's participation lies with the Mediator and the attorney for the children. The children may be involved in the process as part of an independent meeting with the mediator and the children's attorney.
- (2) Parents In Custody. Incarcerated parents may attend mediation at the discretion of the Judicial Officer. If the incarcerated parent is not permitted or able to attend the mediation, he/she may contribute his/her comments by submitting an "Issues Form" to the Mediator's office prior to the mediation.
- (3) Parties As Victims Of Abuse. When a party to mediation is an alleged victim of abuse or violence perpetrated by any other participant, the alleged perpetrator may be excluded from the mediation process. Any request for exclusion on the basis of abuse or violence must be made to the Court at the time the matter is referred to mediation, by the alleged victim or that party's attorney.

The Mediator may meet independently with an alleged perpetrator, depending on the individual circumstances of the case.

A victim of abuse or violence is entitled to attend the mediation sessions accompanied by a support person. The support person may provide moral support, but must not interfere with the mediation process. [Rule 16.05 adopted effective July 1, 2000; amended and renumbered effective July 1, 2002.]

16.06 Reserved

[Rule 16.06, "Authorization for Use of Psychotropic Drugs", was deleted effective 7-1-02.]

16.07 Confidentiality

All persons interested in dependency proceedings are hereby notified of the provisions of Welfare & Institutions Code Section 827, et seq., and of Rule 1423 of the California Rules of Court, which restrict access to information relating to dependency proceedings. The Court may, from time to time, enact or issue an order to specify local rules and procedures related to access to, and dissemination of, confidential juvenile information.
[Rule 16.07 adopted effective July 1, 2002.]

CHAPTER 17: JUVENILE DELINQUENCY RULES

17.01 General Applicability Of The Siskiyou County Local Rules Of Court To Juvenile Delinquency Proceedings

Except to the extent that there may be a conflict with the Rules in this Section 17, the Local Rules pertaining to civil, family law, probate and criminal actions are incorporated herein by this reference as though fully set forth at length, and are hereby made applicable to all juvenile delinquency proceedings. *[Rule 17.01 adopted effective July 1, 2002]*

17.02 Calendar Matters

A. Delinquency Master Calendar

The Court maintains a weekly master calendar for delinquency proceedings; however, cases assigned to that calendar may be subject to calendar changes. Interested persons can confirm the date and time of a calendared delinquency matter by calling the Court's Calendar Coordinator or the Civil/Juvenile Division (530-842-8182).

B. Detention Hearings in Delinquency Proceedings

In general, detention matters in delinquency cases will be set for hearing at 8:15 AM daily, except on the master calendar day when they will be set at 8:30 AM.

If a delinquency detention matter must be heard at any time other than as set forth in this Rule 17.02.B, the detaining agency must give notice to the Court's Calendar Coordinator by no later than 3:00 PM on the court day next preceding the day of the proposed hearing, so that the Coordinator can reserve a bench officer, a reporter, and security personnel.

It is the responsibility of the detaining agency to give timely notice of the date and time of the detention hearing to the Supervising Clerk of the Civil/Juvenile Division, as well as to all parties and all counsel who may have been appointed. *[Rule 17.01 adopted effective July 1, 2002, amended and renumbered effective July 1, 2002.]*

APPENDICES

APPENDIX 1: COURTROOM DECORUM**RULES FOR DECORUM IN THE COURTROOM**

Persons appearing in the courtroom must adhere to the following "Suggestions for Uniformity of Courts and Courtroom Etiquette" approved in 1956 by the Conference of California Judges (now California Judges Association) and modified for use in the Superior Courts comprising the Third Appellate District.

Section 1. PREAMBLE

Fully mindful of our responsibility with regard to courtroom etiquette, these rules are intended to foster a calm and dignified atmosphere in our courts. In all courts there is some formality and the need for courtesy on the part of participants and observers. These matters vary greatly, and there should be an effort toward uniformity and a general guide whereby persons attending our courts may know what is correct courtroom behavior. It is recognized that because of great differences in local customs, thought, climatic conditions and courtroom facilities, complete agreement and uniformity of formality and etiquette may not be immediately obtainable; however, a violation of these rules, without reasonable justification will be sanctionable pursuant to Code of Civil Procedure §177.5.

Section 2. OPENING OF COURT

(a) Court will be formally opened each day at the commencement of the morning session.

(b) The opening formalities and procedure will be as follows: shortly before the scheduled time, the judge will notify the bailiff and other court officers. This will be the signal to court officers and attorneys to terminate conversations, go to their respective positions, discontinue arranging papers, and in general to be prepared. As the judge enters the courtroom, the bailiff will pause and wait until the judge is standing by the bench and facing the flag, and all persons are standing and quiet, and then will say, in a clear and impressive tone, the following:

"Everyone please stand and come to order. The Superior Court of California for the County of Siskiyou is now in session, Honorable [name], Judge presiding."

The bailiff will pause until the judge is on the bench and ready to be seated, then rap with the gavel and state: "Please be seated." If a jury panel is present to be sworn, the bailiff may say: "Jurors remain standing for the oath; all others be seated."

(c) Following court recesses, upon opening court it will be sufficient for the bailiff simply to say: "Remain seated and come to order. Court is again in session."

Section 3. CONDUCT OF ATTORNEYS

(a) Except in condemnation proceedings, the side of the counsel table nearest to the jury box will be occupied by the plaintiff or moving party and the attorney for that party, and the other side by the defendant and the attorney for defendant.

(b) Attorneys must rise and remain standing when addressing the Court or a jury, except in the case of an objection or statement of only a few words.

(c) Attorneys must address the Court from their position behind the counsel table or from a lectern.

(d) Attorneys must examine witnesses from their position behind the counsel table, and may properly, at their option, be seated or standing. Where a lectern is provided, counsel desiring to stand must stand at the lectern. With the Court's permission, it is proper for counsel to approach witnesses who are hard of hearing or when counsel is handling exhibits, or to stand at the blackboard when questioning the witness concerning a map or diagram. This procedure will be observed in all proceedings, including default and probate matters.

(e) Attorneys must not, in addressing the jury, crowd the jury box nor address the jury in a loud voice or in an undignified manner. When a lectern is provided, attorneys must address the jury from the lectern.

(f) Attorneys, during trial, must not exhibit familiarity with witnesses, jurors, or opposing counsel; the use of first names must be avoided. During argument, counsel may not address any juror individually or by name.

(g) Attorneys must be respectful towards the Court and must address the Court in the third person, as "The Court will remember the testimony", not, "You will remember". When the judge is on the bench, he or she may be addressed as "Your Honor", but never as "You" or "Judge". Counsel must "invite", not "direct", the Court's attention. The proper form of an opening statement or argument is "May it please the Court", not, "If the Court please".

(h) Attorneys must refrain from interrupting the Court or opposing counsel until the statement being made is completed, except when absolutely necessary to protect the client's rights on the record, and must respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matters. When objection is made to a question asked by an attorney, that attorney must refrain from asking the witness another question until the Court has had opportunity to rule upon the objection.

(i) Objections and arguments must be made to the Court rather than to opposing counsel.

(j) When trial counsel completes examination of a witness, indication shall be made to opposing counsel by stating "You may inquire", instead of, "That is all". (It is found that the latter expression frequently results in departure of the witness from the stand before the examination is concluded.)

(k) During the argument of opposing counsel, other counsel must remain seated at the counsel table and listen respectfully. Counsel must not get up and walk about or make asides to others, so as to divert attention of the Court or jury, or to express feelings.

(l) After a matter has been argued and submitted and the Court has announced its decision, counsel shall gracefully accept the decision and shall not make further comment or argument, unless upon request the Court reopens argument.

(m) In criminal cases, the defendant and attorney for the defendant shall stand before the bench in waiving arraignment or entering plea, and at the time of passing sentence.

Section 4. BEHAVIOR IN GENERAL, INCLUDING DRESS

(a) Bailiffs must be in uniform. During trial the bailiff must sit properly at the bailiff's desk and must alertly observe the courtroom, so as to be ready at all times to be of assistance or deal with any situation that may require his or her attention.

(b) Attorneys and other officers must always be attired in proper and dignified manner, and abstain from any apparel or ornament calculated to attract undue attention.

(c) Recognizing that the courts belong to the people, judges cannot impose personal preference as to attire of participants in court proceedings and must be mindful and tolerant of changing fashions and reasonable individual idiosyncrasies. However, no witness, litigant, or juror may enter or remain in the courtroom in a condition so dirty, slovenly, bizarre, revealing, or immodest so as to distract from the orderliness and concentration of the trial.

(d) Judges and attorneys must avoid tardiness in court engagements. However, when unavoidably delayed, they will explain the reason for such delay.

(e) Before entering a courtroom where court is in session, all persons must first remove overcoat, hat, and similar items, rather than do these things after entering the courtroom and thereby causing a diversion.

(f) No person may, in the courtroom when court is in session, smoke, chew gum or tobacco, eat candy or other confections, read newspapers or magazines, knit, attend crying children, converse, or indulge in any other similar conduct which might be offensive or distracting to any other person.

(g) No person in the courtroom may ever, by facial expression of incredulity, shaking of the head, or other conduct, show feeling concerning any testimony that is being given by a witness on the stand or statements made by the judge or counsel.

(h) The judge will at all times endeavor to put witnesses, young attorneys, jurors and others appearing in the court at ease by kindly and friendly demeanor.

(i) The swearing-in of witnesses is not to be conducted as a mere formality, but must be done in a manner that will impress upon the witness the importance of his or her testimony. Witnesses must be sworn individually, except in default cases.

(j) The space behind the bar is normally reserved for court employees and attorneys. Clients and witnesses must not venture beyond the bar except when necessary to confer with counsel. No one may walk between the bench and counsel table, unless the construction of the courtroom makes such path necessary.

Section 5. JURORS

(a) It must be remembered that jurors are making a great personal sacrifice to give their time to assist the Court and the community; hence they are entitled to every consideration and courtesy.

(b) The judge shall be careful in reading instructions, to read slowly and with proper emphasis, so as to make them as clear as possible.

(c) The judge shall, and attorneys and court employees must, make every effort to avoid inconveniencing a jury panel by having them called in, or not called off, in the event a scheduled matter will not be tried.

(d) At each recess, the jurors will be allowed to leave the courtroom before the spectators.

(e) When a case is taken from the jury in the event of a non-suit or a settlement, the judge, in dismissing the jury, shall briefly explain the procedure and the reason why a verdict was unnecessary.

Section 6. COURT REPORTERS

For the proper preservation of the record of proceedings in the court, the following procedures must be adhered to:

- (a) Witnesses and counsel must face the direction of the court reporter, if one is present, when testifying or addressing the Court.
- (b) Counsel must seek permission of the Court for all requests for read back of testimony or other material from the court reporter.
- (c) Counsel must not instruct the court reporter that statements are off the record. Counsel desiring to have the proceedings deemed off the record must seek permission of the Court. Unless directed by the Court, all proceedings while the Court is in session are part of the Court's official record and will be reported by the court reporter.

Section 7. IMPLEMENTATION

- (a) Attorneys must advise their clients and witnesses concerning court formalities and etiquette, and explain to them that the reasons for such proper behavior are to avoid offense to others and, by their conduct, to show respect for the Constitution and laws of the state and of the Court as an institution.
- (b) Judges, upon impaneling and qualifying new juries, shall mention and explain these rules, insofar as they apply to jurors.
- (c) Any infraction of these rules, if deemed worthy of notice or admonition, must be dealt with in a kindly and diplomatic manner. If it is a matter for the bailiff, the bailiff must communicate with the person involved as privately as possible. If it is a matter involving counsel, the Court generally shall speak to counsel in chambers rather than causing embarrassment in open court.

NOTE: The foregoing suggestions were presented by the Committee on Courtroom Etiquette and Formalities to the 1956 Conference of California Judges at its annual meeting, and on motion duly made and seconded, the suggestions were approved. These suggestions were subsequently adopted by the Third District Court of Appeal and by the Siskiyou County Superior Court, and most recently amended effective January 1, 2002.

APPENDIX 2: CODE OF ETHICS

CODE OF ETHICS FOR EMPLOYEES OF THE COURTS OF CALIFORNIA

A fair and independent court system is essential to the administration of justice in a democratic society. Proper conduct by court employees inspires public confidence and trust in the courts, and conveys the values of impartiality, equity, and fairness that bring integrity to the Court's work. To advance these values and to achieve justice we believe certain moral principles should govern all that we do. We therefore commit ourselves to:

Tenet One: Provide impartial and evenhanded treatment of all persons;

Tenet Two: Demonstrate the highest standards of personal integrity, honesty, and truthfulness in all our professional and personal dealings, avoiding the misuse of court time, equipment supplies, or facilities for personal business;

Tenet Three: Behave toward all persons with respect, courtesy, and responsiveness, acting always to promote public esteem in the court system;

Tenet Four: Safeguard confidential information, both written and oral, unless disclosure is authorized by the Court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters;

Tenet Five: Refrain from any actual impropriety, such as:

- breaking the law
- soliciting funds on the job,
- receiving gifts or favors related to court employment
- accepting outside employment that conflicts with the Court's duties, or
- recommending private legal service providers;

Tenet Six: Avoid any appearance of impropriety that might diminish the honor and dignity of the Court;

Tenet Seven: Serve the public by providing procedural assistance that is as helpful as possible without giving legal advice;

Tenet Eight: Furnish accurate information as requested in a competent, cooperative, and timely manner;

Tenet Nine: Improve personal work skills and performance through continuing professional education and development;

Tenet Ten: Guard against and, when necessary, repudiate any act of discrimination or bias based on race, gender, age, religion, national origin, language, appearance, or sexual orientation;

Tenet Eleven: Renounce any use of positional or personal power to harass another person sexually or in any other way that is based on the person's religious beliefs, political affiliation, age, national origin, language, appearance, or other personal choices and characteristics; and,

Tenet Twelve: Protect the technological property of the Court by preserving the confidentiality of electronically stored information and abstain from personal use of court computer systems and hardware.

A code of ethics cannot possibly anticipate every moral dilemma and ethical choice that may arise in the execution of one's day-to-day professional responsibilities. Personal discretion in the interpretation of this Code of Ethics is both necessary and desirable. We who believe in it will continue to try to cultivate within ourselves the moral sensibilities that will inform and enliven our consciences and make us true servants of justice.

APPENDIX 3: DECLARATION RE EX PARTE NOTICE (SC-CV-1)

NAME OF APPLICANT OR ATTORNEY FOR APPLICANT: ADDRESS: TELEPHONE:	(FOR COURT USE ONLY)
SISKIYOU COUNTY SUPERIOR COURT 311 FOURTH STREET P.O. BOX 1026 YREKA, CALIFORNIA 96097	
IN THE MATTER OF: PETITIONER / PLAINTIFF: RESPONDENT / DEFENDANT:	CASE NUMBER
DECLARATION RE EX PARTE NOTICE	

I, the undersigned, declare under penalty of perjury that

- I am: (1) ☐ unrepresented Petitioner/Plaintiff ☐ unrepresented Respondent/Defendant
(2) ☐ the attorney for: ☐ Petitioner/Plaintiff ☐ Respondent/Defendant
(3) ☐ other (explain): _____
- The opposing party is represented by counsel: ☐ Yes ☐ No If you checked "yes", fill in attorney's name, address and telephone number:

- The parties to this action have been involved in another Family Law, Domestic Violence, Family Support Div., Paternity, Criminal, Guardianship, or Juvenile Court case. ☐ YES ☐ NO.
If there has been another case, state the County in which it is pending _____, **and** the case number _____
- I have given notice of this ex parte application ☐ YES ☐ NO **(If you answered "No", skip #5 - #9 and complete the rest of the form.)**
- I gave notice to _____, on _____ at _____
(Name) (Date) (Time)
- ☐ The notice included the information contained in Attachment 1 of this declaration.
- ☐ I gave notice to _____ that I would present an application for these orders at _____ (AM) (PM) on _____ at the SUPERIOR COURT CHAMBERS, DEPT. 1. **[Unrepresented parties must deliver their applications to the clerk of the Court.]**
- ☐ A copy of these pleadings was given to: _____ by the following method:
☐ personal delivery ☐ overnight letter or other overnight carrier ☐ fax transmission ☐ other (explain): _____

- I have received the following response: _____

LOCAL RULES OF THE SISKIYOU COUNTY SUPERIOR COURT

10. ☐ I anticipate that the other party WILL oppose this application. ☐ I anticipate that the other party WILL NOT oppose this application.

11. I have **NOT** given notice of the present application for ex parte orders because:

☐ Notice would frustrate the purpose of the orders sought.

☐ Applicant would suffer immediate and irreparable harm before the orders could issue.

☐ No significant burden or inconvenience to the responding party will result.

☐ The orders requested are those permitted without notice by local rule.

☐ I made reasonable, good faith efforts to give notice, described as follows: _____

☐ Other: _____

EXPLAIN WHY YOU CHECKED ANY BOX IN ITEM 11: _____

12. I believe that the other party's abuse of ☐ alcohol ☐ drugs is a major factor in his/her offensive behavior.

13. If you are asking that anyone else be protected, then his or her name, age, relationship to you, and need for protection must be stated.

NAME & AGE	RELATIONSHIP	WHY PROTECTION NEEDED	LIVES IN MY RESIDENCE (CIRCLE YES OR NO)
a. _____			YES NO
b. _____			YES NO
c. _____			YES NO
d. _____			YES NO
e. _____			YES NO

14. Are you in mediation? ☐ YES ☐ NO If so, have you notified the Court Mediator of this application? ☐ YES ☐ NO.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct,
and that this declaration was signed at _____, California, on _____, 200____,

Signature of Declarant _____

Print Name: _____

This form may be used to satisfy the requirements of ex parte notice pursuant to Rule 3.03.B of the Local Rules of the Siskiyou County Superior Court, if you provide an attachment which includes a statement of the notice you gave and of the exact temporary orders you are requesting from the Court.

APPENDIX 4: NOTICE OF TRIAL SETTING CONFERENCE

SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SISKIYOU

NAME OF PARTY:

PLAINTIFF/PETITIONER:

NAME OF PARTY:

DEFENDANT/RESPONDENT:

CASE NO.

NOTICE OF:

☐ TRIAL SETTING CONFERENCE
☐ PRETRIAL CONFERENCE
☐ SETTLEMENT CONFERENCE
☐ TRIAL BY ☐ COURT ☐ JURY
☐ HEARING ON (specify):

1. **YOU ARE NOTIFIED THAT THE PROCEEDING SPECIFIED ABOVE WILL BE HELD IN THIS COURT AS FOLLOWS:**

DATE:

TIME:

ADDRESS OF COURT:

311 Fourth St.
P.O. Box 1026
Yreka, CA 96097

2. **COUNSEL ARE ASKED TO ADVISE THE COURT OF ANY ATTORNEY OF RECORD IN THIS PROCEEDING WHOSE NAME DOES NOT APPEAR BELOW.**

3. **NAME OF COUNSEL**

REPRESENTING

Plaintiff/Petitioner
In Propria Persona

Defendant/Respondent
In Propria Persona

A court reporter will be deemed waived unless a written request is filed and the per diem is paid within 10 days of this notice.

**SEE ATTACHED PRETRIAL REQUIREMENTS,
AND PLEASE NOTE REQUIRED SCHEDULE FOR RESPONSE.**

**NO CONTINUANCES WILL BE GRANTED FOR
SCHEDULED TRIAL SETTING AND PRETRIAL CONFERENCES.**

Dated:

***Counsel are referred to CRC Rules 207.5 (Settlement Conference), 210, 211, 212, 216, 217 (Pretrial Conference), and 220.1 and 220.2 (Trial Setting Conference) for a statement of obligations and further particulars. (The term "counsel" includes parties appearing in propria persona.) Counsel are also required to comply with the Local Rules of Court.

PRETRIAL REQUIREMENTS

The purpose of this inquiry is to determine the need for court appearance by counsel on the Pretrial Conference now set for _____, 200____, at _____ (AM) (PM). A response to this inquiry is required not later than _____, 200____. Based on the response of counsel and the circumstances of the case, all counsel will be notified by _____, 200____, whether an appearance is required for the scheduled conference.

Your response to this inquiry will be deemed by the Court to be your pretrial statement concerning this case. In the event that an appearance is not required, a Pretrial Conference Order will be prepared by the Court and will be filed and served upon all counsel. Appropriate time will be allowed for the modification or correction of the Pretrial Conference Order.

1. **RESPONDING COUNSEL:**
 - (a) State name and address of firm or of attorney.
 - (b) State name of the attorney who will try this case.
2. **REPRESENTATION:** state the full name of all clients you represent and the capacity in which you represent them (e.g., plaintiff and cross-defendant).
3. **APPEARANCES ON COMPLAINT OR CROSS-COMPLAINT:** if you are a plaintiff or cross-complainant, state the following:
 - (a) Names of all parties you have served as defendant or cross-defendant.
 - (b) Name of any served party who has failed to appear, and whether default may be entered.
 - (c) If time for appearance has not expired, give expiration date.
 - (d) If further parties are to be served, state the name(s), estimated time needed to accomplish service, and nature of the pleading you intend to serve (e.g., equitable indemnity, express indemnity, etc.).
4. **STATEMENT OF THE CASE:** set forth a brief but comprehensive statement of the nature of the case. Please do not merely restate the pleadings, as they will be read in conjunction with your response.
5. **ALLEGATIONS NOT IN DISPUTE:** list the allegations made against your client(s) about which there is no dispute.
6. **STATEMENT OF DISPUTED ISSUES:** list all disputed issues to be determined at trial.
7. **BIFURCATION OF ISSUES:** list any issues that should be bifurcated and tried separately. State the nature of each issue, whether court or jury trial requested, time required for trial, and time required for trial preparation on that issue.
8. **RESOLUTION OF EVIDENTIARY PROBLEMS:** state any unusual evidentiary matters relating to this case that may be considered and ruled on in advance of trial. If you anticipate making a motion in limine, briefly state the nature of the issue.

9. DISCOVERY: state whether discovery has been completed and, if incomplete, the time required for completion. State whether or not any court orders should be considered with regard to further discovery.
10. LAW AND MOTION MATTERS: state whether or not you anticipate filing any Law and Motion matters. If so, state the nature and anticipated scheduling of those matters.
11. EXPERT WITNESSES: state whether or not you will call expert witnesses at trial. If so, state whether the provisions of CCP §2034 will be sufficient to accomplish disclosure and discovery, or if, in lieu of CCP §2034, the following provision is more suitable in this case.

Each party will file and serve upon the other, at least 45 days prior to trial, a designation of expert witnesses intended to be called at trial, stating the name, address, and area of expertise, with a brief summary of expected testimony. Any interested party may depose any listed witnesses within 15 days of trial. This order supersedes the provisions of CCP §2034 with respect to the time within which demand to exchange lists of expert witnesses may be served.
12. COURT OR JURY TRIAL: state whether or not you demand a jury.
13. ESTIMATED LENGTH OF TRIAL: state the number of days you estimate will be needed to try the case.
14. UNAVAILABLE TRIAL DATES: set forth your unavailable trial dates. (**Note:** in Siskiyou County, trials are conducted on Tuesdays through Fridays, and begin at 9:00 AM.).
15. NEED FOR APPEARANCE AT CONFERENCE: state whether or not appearance by counsel at the scheduled conference would be helpful to the resolution or clarification of the issues.
16. ARBITRATION: Siskiyou County does not have mandatory arbitration, but maintains a panel of arbitrators for personal injury cases and for “other civil” cases. If plaintiff elects to limit recovery on arbitration to \$50,000, or if all parties stipulate to arbitration on whatever terms they desire, the case will be placed on the arbitration hearing list and the matter will proceed in accordance with Rule 1600 et seq. of the California Rules of Court. The arbitrator’s fee is apportioned among the parties and is determined by agreement between the parties and the arbitrator, with the Court reserving jurisdiction to fix the fee in the event agreement cannot be reached.
 - (a) State whether or not plaintiff agrees to a limit of \$50,000, and requests arbitration.
 - (b) State whether or not all parties stipulate to arbitration. If so, state the terms agreed upon for arbitration.
17. OTHER: state any other matters that the Court should consider in this case.

ROBERT F. KASTER
JUDGE OF THE SUPERIOR COURT

APPENDIX 5: RESERVED

APPENDIX 5 IS RESERVED

APPENDIX 6: RESERVED

APPENDIX 6 IS RESERVED

APPENDIX 7.A: PETITION AND ORDER RE ADOPTION RECORDS (SC-AD-1)

Name: _____

Address: _____

Telephone: _____

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SISKIYOU**

In the Matter of the)	
Adoption of)	CASE NO. _____
_____ ,)	
(Name))	PETITION TO INSPECT
_____)	ADOPTION RECORDS; AND
)	ORDER THEREON

Petitioner respectfully represents:

1. I, _____, am the

(Print Name of Petitioner)
(Relationship to Parties in This Matter, if Any)
2. On _____, a decree of adoption was entered in this matter,

(Date)
(Name of Adoptee)

 decreeing _____
 to be the adopted child of _____.

(Name/s of Adoptive Parent/s)
3. Other name/s by which the adoptee is or has been known _____.
4. For reasons set forth below, permission is hereby sought:
 - ☐ to determine whether an action has been filed for the adoption of the party named above.
 - ☐ to obtain a certified copy of the adoption decree.
 - ☐ to obtain an undeleted copy of the adoption file.
5. Reason for request:
 - ☐ Medical necessity (declaration attached).
 - ☐ Other extraordinary circumstances, and for good cause approaching the necessitous (declaration attached).
 - ☐ Other: _____ (declaration attached).

WHEREFORE, petitioner prays for an order directing the clerk of the Court to allow inspection and copying by petitioner of the confidential court records in this matter, including the names of the birth parents.

Date: _____

PETITIONER

In Re the Adoption of: _____ Case
No. _____

VERIFICATION

I, _____, am the petitioner in this proceeding. I have read the foregoing petition and know the contents thereof. The same is true of my own knowledge, except as to matters therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

PETITIONER

ORDER

Upon consideration of the Application above, and with good cause appearing, permission is hereby granted to the above-named applicant to obtain the information and the services hereinabove set forth. The Court finds that the requirements of Family Code §9200 et.seq. have been met. The clerk of the Court is ordered to permit the inspection and copying of the file as prayed, upon payment by petitioner of the appropriate fees and costs.

Date: _____

JUDGE OF THE SUPERIOR COURT

CLERK'S CERTIFICATION

The undersigned declares:

A search of the indices for adoption from _____ to _____ has been made by the clerk, who finds no records in this office pertaining to the adoption of _____.

CLERK OF THE SUPERIOR COURT
Siskiyou County, California

Date: _____ By: _____
Deputy

APPENDIX 7.B: SUPPORTING DECLARATION RE ADOPTION RECORDS (SC-AD-2)

Name: _____

Address: _____

Telephone: _____

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SISKIYOU**

In the Matter of the)	
Adoption of)	CASE NO. _____
)	
_____,)	SUPPORTING DECLARATION
(Name))	RE ADOPTION RECORDS
_____)	

I, the undersigned _____, declare as follows:
(Print Name)

- I am the _____
(Relationship to Parties to Adoption, If Any, e.g., Adoptee)
in this matter.
- On _____, a decree of adoption was entered in this
(Date)
matter, decreeing _____ to be the adopted
(Name)
child of _____.
(Name/s of Adoptive Parent/s)
- Medical necessity or other extraordinary circumstances, explained below,
justify the disclosure of records relating to the aforesaid adoption [IF MORE
SPACE IS REQUIRED, PLEASE ATTACH ADDITIONAL PAGES.]:

I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct, and that this declaration was executed on

_____ at _____.
(Date) (Place)

Signature: _____

Printed Name: _____

APPENDIX 8: FORM OF ACCOUNTS**FORM OF ACCOUNTS**

The following information must be included in every financial report that is required pursuant to the Probate Code, and it must appear in substantially the format shown.

The petitioner is chargeable with, and is entitled to credits for, certain items as set forth in this Summary of Account. The referenced supporting schedules are attached hereto, and are incorporated herein by this reference:

SUMMARY OF ACCOUNT**CHARGES**

Amount of Inventory and Appraisement
(or, if subsequent account, amount
chargeable from prior account).....\$ _____

Receipts During Account Period
(Schedule "A")\$ _____

Gain on Sales
(Schedule "B")\$ _____

TOTAL CHARGES\$ _____

CREDITS

Disbursements During Account Period
(Schedule "C")\$ _____

Loss on Sales
(Schedule "D")\$ _____

Other Credits (property distributed, homestead,
or other property set apart)
(Schedule "E")\$ _____

Property on Hand
(Schedule "F")\$ _____

TOTAL CREDITS\$ _____

The summary must be supported by detailed schedules. The schedules of receipts and disbursements, unless properly waived, must show the nature or purpose of each item, and the date thereof. The schedule of property currently on hand must describe each item, and must indicate its appraised value.

APPENDIX 9: DECLARATION RE EX PARTE NOTICE (SC-FL-2)

ATTORNEY OR SELF-REPRESENTED PARTY (Name, State Bar No., and Address)		
Telephone No.:	FAX No.:	
E-Mail Address:		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SISKIYOU STREET ADDRESS: 510 NORTH MAIN STREET, YREKA, CA 96097 MAILING ADDRESS: P.O. BOX 1026, YREKA, CA 96097 BRANCH: FAMILY LAW DEPARTMENT 9		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
INTERVENOR/OTHER PARENT:		
DECLARATION RE EX PARTE NOTICE (EMERGENCY APPLICATION FOR ORDERS)		CASE NO: DEPT:

1. I, _____, am the
☐ Attorney for ☐ Petitioner/Plaintiff ☐ Respondent/Defendant ☐ Intervener/Other Parent
☐ Local Child Support Agency ☐ Other (*specify*): _____ in this case.
2. a. ☐ I told the opposing party the date, time, and place of this emergency hearing and what I would be asking the Court to order. I told the opposing party that I would be appearing on (date) _____ at 1:15 p.m. in Department 9 of the above-entitled Court, located at 510 N. Main Street, Yreka, CA 96097.
- b. ☐ This notice was given by:
- (1) ☐ telephone on (*date*): _____ telephone no.: _____ at _____ a.m/p.m.
- (2) ☐ personal service on (*date*): _____ at (*location*): _____, Calif., at _____ a.m/p.m.
- (3) ☐ fax on (*date*): _____ fax no.: _____ at _____ a.m/p.m.
- (4) ☐ e-mail on (*date*): _____ to e-mail address: _____ at _____ a.m/p.m.
- c. (1) ☐ I gave this notice by 10:00 a.m. of the court day before this emergency hearing.
- (2) ☐ I gave this notice after 10:00 a.m. of the court day before this emergency hearing because of the following exceptional circumstances (*specify*): _____
- d. The opposing party responded to my notice in the following manner (*specify*): _____
- e. ☐ I believe the opposing party will come to court to oppose this request.
3. ☐ I used my best efforts to tell the opposing party when and where this hearing would take place but was unable to do so. The efforts I made to inform the other person were (*specify*): _____
4. ☐ I did not try to tell the opposing party about this emergency request for orders because (*check all that apply*):
- a. ☐ This is an application for Domestic Violence Prevention Act (DVPA) restraining orders.
- b. ☐ I, or my client, would suffer great or irreparable injury before the other party could be heard in opposition.
- c. ☐ Other (*specify*): _____
- Please explain your answer(s) to a-c:**
5. ☐ The parties to this case are involved in another family, probate, juvenile or criminal court case. That case number is: _____
6. ☐ I have asked for these orders before.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 [TYPE OR PRINT NAME]

 [SIGNATURE]

CONFIDENTIAL

CASE PARTY INFORMATION

The Following Information Is Required By Siskiyou County Superior Court For Effective Case Management

PLAINTIFF / PETITIONER / VICTIM:

Legal Name: _____ (Last)	_____ (First)	_____ (Middle Initial)
AKA: _____ (Last)	_____ (First)	_____ (Middle Initial)
Mailing Address: _____ _____ _____	Residence Address: _____ _____ _____	
Date Of Birth: _____	SSN: _____	

List any other Siskiyou County Superior Court cases that exist for you or the other party, by case name **and** case number: _____

The Following Information Is Required By Siskiyou County Superior Court For Effective Case Management

DEFENDANT / RESPONDENT:

Legal Name: _____ (Last)	_____ (First)	_____ (Middle Initial)
AKA: _____ (Last)	_____ (First)	_____ (Middle Initial)
Mailing Address: _____ _____ _____	Residence Address: _____ _____ _____	
Date Of Birth: _____	SSN: _____	

List any other Siskiyou County Superior Court cases that exist for you or the other party, by case name **and** case number: _____

APPENDIX 11: CITATION TO PARENT (SC-AD-3)

SISKIYOU COUNTY SUPERIOR COURT Street Address: 311 Fourth St., Yreka, California 96097 Mailing Address: PO Box 1026, Yreka, California 97097	(FOR COURT USE ONLY)
IN THE MATTER OF THE PETITION OF _____ <i>(name of adopting parent)</i> To Declare Minor _____ _____ <i>(name of minor)</i> Free From the Custody and Control of _____ _____ <i>(name of parent)</i>	
CITATION TO PARENT	CASE NO.
	Date of Hearing:
	Time of Hearing:
Courtroom:	

FROM: THE PEOPLE OF THE STATE OF CALIFORNIA

TO: _____

By order of this Court you are hereby advised that you may appear before the judge presiding in Courtroom _____ of the Court, located at _____, Yreka, California, on _____ at _____ (PM)(AM), then and there to show cause, if any you have, why _____ (name of minor) should not be declared free from your custody and control for the purpose of placing said child for adoption.

The following information concerns rights and procedures that relate to this proceeding for the termination of custody and control of _____, as set forth in Family Code Section 7800, et seq.

1. At the beginning of the proceeding, the Court will consider whether or not the interests of the minor require the appointment of counsel. If the Court finds that the interests of the minor do require such protection, the Court will appoint counsel to represent him/her, whether or not the minor is able to afford counsel. The minor will not be present in court unless he/she so requests or the Court so orders.

2. If the cited parent of the minor appears without counsel and is unable to afford counsel, the Court must appoint counsel for the parent, unless the parent knowingly and intelligently waives the right to be represented by counsel. The Court will not appoint the same attorney to represent both the minor and his/her parent.

3. The Court may appoint either the public defender or private counsel. If private counsel is appointed, he/she will receive a reasonable sum for compensation and expenses, the amount of which will be determined by the Court. That amount must be paid by the real parties in interest (but not by the minor) in such proportion as the Court believes to be just. If, however, the Court finds that any of the real parties in interest cannot afford counsel, the attorney fees will be paid by the Court, wholly or in part.

4. The Court may continue the proceeding for not more than 30 days, as necessary, to appoint counsel and to enable counsel to become acquainted with the case.

Date: _____

CLERK OF THE SUPERIOR COURT

By: _____
Deputy Clerk

APPENDIX 12: RESERVED

APPENDIX 12 IS RESERVED

APPENDIX 13: CASE MANAGEMENT STATEMENT

ATTORNEY OR SELF-REPRESENTED PARTY (Name, State Bar No., and Address)		
TELEPHONE NO.:	FAX NO.:	
E-MAIL ADDRESS:		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SISKIYOU STREET ADDRESS: 510 NORTH MAIN STREET, YREKA, CA 96097 MAILING ADDRESS: P.O. BOX 1026, YREKA, CA 96097 BRANCH: FAMILY LAW (DEPARTMENT 9)		
PETITIONER / PLAINTIFF:		
RESPONDENT / DEFENDANT:		
INTERVENOR / OTHER PARENT:		
CASE MANAGEMENT STATEMENT		CASE NO: CMC Date: 9:00 a.m. Dept. 9

NATURE OF CASE:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is this a contested case? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Are there children involved in this case? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Is anyone asking for spousal support? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. Is a local child support agency involved in this case? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If "no", would you like the local child support agency involved? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. Have the parties reconciled? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| If "yes", do you want this action dismissed? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

CASE STATUS:

6. The purpose of this statement is to obtain information about your case. Before completing the rest of the form, please use the following space to state, in your own words, the status of this case and your expectations for its future progress. *(If represented by counsel, counsel may describe status of case.)*

7. If you are not represented by an attorney, have you sought assistance or information from the Family Law Facilitator? ☐ Yes ☐ No (Facilitator: 500 N. Main St., Yreka, CA, 96097 530-842-8380)
8. If there are children involved in this case, report the current status of any request for custody, visitation, or child support:
- | | | |
|--|------------------------------|-----------------------------|
| <input type="checkbox"/> We have an agreement regarding custody and visitation. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> We have an agreement regarding child support. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> We do not have an agreement (<i>briefly describe current status, including where the minor children currently reside, and the type and frequency of contact that each parent has had with the children</i>). | | |

Petitioner:	Case No.:
Respondent:	

9. a. Has this case settled? ☐ Yes ☐ No
 b. If "yes", the judgment will be filed on or before (date) _____.
 c. If "no", and if a response has been filed in this case, do you want a settlement conference soon?
☐ Yes ☐ No
 d. Have you and the other party voluntarily exchanged relevant records? ☐ Yes ☐ No
 e. Have you and the other party (with counsel if represented) had a meeting to try and settle all issues?
☐ Yes ☐ No
10. If this case is not settled, briefly describe the contested issues (do not include issues relating to custody, visitation and support of minor children).

Property:

- ☐ We have no property to divide.
☐ We want to finalize this case and obtain a judgment.
☐ We have prepared a written agreement dividing all of our property.
☐ We have no agreement on dividing all of our property.
☐ My proposal for dividing our property is ☐ attached ☐ as follows: _____

- ☐ We do not have an agreement concerning the value and disposition of real property.
☐ We have a fair market appraisal for the real property. ☐ Yes ☐ No
☐ We have a community property business.
☐ We have a fair market appraisal for the business. ☐ Yes ☐ No

Debts:

- ☐ We have no debts to divide.
☐ We have prepared a written agreement dividing all of our debts.
☐ We have no agreement regarding the division of the debts.
☐ My proposal for dividing debts is ☐ attached ☐ as follows: _____

Spousal Support:

- ☐ Spousal support is not requested by either party.
☐ We do not agree on spousal support.
☐ My proposal for spousal support is _____

Attorney Fees and Costs:

- ☐ We will each pay our own attorney fees and costs.
☐ We have attorney fees and do not agree on how they should be paid.
☐ My proposal for payment of attorney fees and costs is _____

Dated: _____

☐ Petitioner ☐ Respondent ☐ Other
☐ Attorney for _____

APPENDIX 14: AT ISSUE MEMORANDUM (SC-FL-3)

ATTORNEY OR SELF-REPRESENTED PARTY (Name, State Bar No., and Address)		
TELEPHONE NO.: E-MAIL ADDRESS:	FAX NO.:	
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SISKIYOU STREET ADDRESS: 510 NORTH MAIN STREET, YREKA, CA 96097 MAILING ADDRESS: P.O. BOX 1026, YREKA, CA 96097 BRANCH: FAMILY LAW (DEPARTMENT 9)		
PETITIONER / PLAINTIFF:		
RESPONDENT / DEFENDANT:		
INTERVENOR / OTHER PARENT:		
<input type="checkbox"/> AT ISSUE MEMORANDUM <input type="checkbox"/> COUNTER AT ISSUE MEMORANDUM		CASE NO:

1. Settlement Conference Requested: ☐ Yes ☐ No 2. Time Estimate for Trial: _____ Hours _____ Days

3. Indicate parties:

a. Petitioner: _____ b. Respondent: _____
 Attorney: _____ Attorney: _____
 Address & Tel. No.: _____ Address & Tel. No.: _____

I hereby represent to the Court that all essential parties have been served with process or have appeared in this case and that this case is at issue as to all parties; and that no amended or supplemental pleading remains unanswered.

- ☐ There are no children who may be subject to the Court's jurisdiction in this case.
☐ There are no unresolved custody/visitation issues in this case.
☐ The Court has excused compliance with Local Rule 14.06.E(4).
☐ I will not be available for trial or settlement conference on the following dates (over the next 4 months): _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

► Signature of: ☐ Petitioner ☐ Respondent ☐ Counsel

*Any party not in agreement with the information or estimates given in an at-issue memorandum must, within ten days after service of the at-issue, serve and file a counter-at-issue memorandum. **BE ADVISED** that strict compliance with Local Rule 14.06.E is required.*

PROOF OF SERVICE BY MAIL (CODE OF CIVIL PROCEDURE §§1013a, 2015.5)

I am a citizen of the United States and a resident of the County of _____. I am over the age of eighteen years and not a party to the above-entitled action; My residence/business address is: _____

_____. On (date) _____,

I served a copy of this document and _____

on the ☐ Respondent ☐ Petitioner ☐ Other: (name) _____

by placing a true copy thereof enclosed in a sealed envelope with postage prepaid, in the United States Post Office mail box at (place) _____

_____, directed to the address indicated in (check one) ☐ 3a ☐ 3b above.

I declare under penalty of perjury under the laws of the State of California that the foregoing, including any attachment, is true and correct, and that this declaration is executed on (date): _____ at (place): _____.

 (Type Or Print Name)

► _____
 (Signature)

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**CRC RULE 981(f)(3) LIST OF CURRENTLY EFFECTIVE
LOCAL RULES, WITH DATES OF ADOPTION AND LATEST AMENDMENTS**

RULE	SUBJECT	ADOPTION AND AMENDMENT DATES
CHAPTER 1	GENERAL RULES	
RULE 1.01	CITATION OF RULES	adpt'd 1-1-97, amnd 1-1-03
RULE 1.02	EFFECTIVE DATE OF RULES	adpt'd 1-1-97, amnd 1-1-05
RULE 1.03	EFFECT OF RULES; PREEMPTIONS	adpt'd 1-1-97, amnd 1-1-03
RULE 1.04	CONSTRUCTION AND APPLICATION	adpt'd 1-1-97, amnd 1-1-03
RULE 1.05	DEFINITIONS	adpt'd 1-1-97, amnd 1-1-03
RULE 1.06	AMENDMENTS; ADDITIONS; REPEAL	adpt'd 1-1-97, amnd 1-1-01
CHAPTER 2	ADMINISTRATIVE MATTERS	
RULE 2.01	COMMISSIONERS AND JUDGES PRO TEM	adpt'd 1-1-97, amnd 7-1-05
RULE 2.02	COURT REPORTERS	adpt'd 1-1-97, amnd 7-1-05
RULE 2.03	CASE DISPOSITION TIME STANDARDS	adpt'd 1-1-97, amnd 1-1-03
RULE 2.04	SMOKING	adpt'd 1-1-97, amnd 1-1-03
RULE 2.05	COURTROOM DECORUM	adpt'd 1-1-97, amnd 1-1-03
RULE 2.06	RESERVED	adpt'd 1-1-97, del't'd 1-1-01
RULE 2.07	RESERVED	adpt'd 1-1-97, rnmbrd 1-1-03
RULE 2.08	COURT EXECUTIVE OFFICER/CLERK OF THE SUPERIOR COURT	adpt'd 1-1-97, amnd 1-1-03
RULE 2.09	CODE OF ETHICS FOR COURT EMPLOYEES	adpt'd 1-1-97, rnmbrd 1-1-03
RULE 2.10	APPELLATE DIVISION RULES	adpt'd 1-1-97, amnd 1-1-03
RULE 2.11	JURY SELECTION BOUNDARIES	adpt'd 1-1-97; amnd 1-1-03
RULE 2.12	EXCUSES FROM JURY SERVICE	adpt'd 1-1-97, amnd 1-1-03
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